

DESK GENERAL TERMS AND CONDITIONS

I. GENERAL PROVISIONS

Article 1 Definitions

The following terms in these general conditions have the meanings given:

- GDPR: General Data Protection Regulation. Regulation (EU) 2016/679 of the European Parliament and of the Council;
- Desk: the joint designation for the following companies:
 - Desk Services B.V., having its registered office at Withuisveld 15 in (NL-6226 NV) Maastricht, the Netherlands;
 - Desk Special Services B.V., having its registered office at Withuisveld 15 in (NL-6226 NV) Maastricht;
- Services: the work to be performed by Desk for the Customer pursuant to the Agreement, including: work in relation to processing and sending (direct) mailings and other printed matter, storing and sending Goods, work in relation to Data Processing, developing Software and constructing websites;
- Data processing: a processing or a combined processing relating to data, whether or not performed by means of automatic procedures, such as collecting, recording, organising, structuring, storing, updating or changing, accessing, consulting, using, providing by means of transferring, disseminating or making available in some other way, aligning or combining, protecting, erasing or deleting data;
- Goods: objects and proprietary rights
- IT Services/ IT Service delivery: Services consisting of providing advice, designing, developing websites, databases or (computer) information systems, hosting websites, processing data, details and information using either Software developed especially for the purpose by Desk and/or third parties or other Software and/or other technical processing methods developed by Desk;
- Materials: all work performed and produced by Desk in the context of the Agreement that is subject to intellectual and/or industrial property rights in the broadest sense of the word, such as - but not limited to - (marketing or promotion) concepts, Data Processing Software, databases, information, notes, presentations, analyses, designs, drawings, logos, documentation, reports, quotes, the results of Services, as well as associated preparatory material, brand and/or trade name rights;
- Customer: any natural or legal entity who enters into a direct or indirect agreement with Desk in any way in relation to the delivery of Goods and/or performance of Services;
- Agreement: the Agreement between Desk and the Customer in relation to the delivery of Goods and/or the performance of Services by Desk for the benefit of the Customer;
- Parties: the joint designation of Desk and the Client;
- Personal data: all information relating to an identified or identifiable natural person (“the data subject”); identifiable is considered to be a natural person who can be identified directly or indirectly, particularly on the basis of a identifier such as a name, an identification number, location details, an online identifier or one or more elements that are characteristic of the physical, physiological, genetic, psychological, economic, cultural or social identity of that natural person, all as defined in the GDPR;
- Complaint(s): any complaints and/or grievances from the Customer in relation to how Desk is fulfilling the Agreement;
- Software: computer programme in a format legible for a data processing machine and recorded on material legible to such machine, as well as the associated documentation and user rights for it;
- TW: Telecommunications Act;

- Transport company: the party looking after the loading, unloading and transport of Goods, for example - but not limited to - the (postal/package) delivery company, courier, freight company, etc.

Article 2 Scope of application of the General Terms and Conditions

1. These general terms and conditions are applicable to all quotes/offers and agreements as part of which Desk also supplies Services and/or Goods of any nature to the Customer, also if those Services are not specified in these terms and conditions. Any deviations from these general terms and conditions only apply if they have been explicitly agreed between the Parties.
2. The provisions under I (General Terms and Provisions) are applicable to all activities to be performed by Desk. The provisions under II (Ownership, Storage and transport of Goods), III (IT Services), IV (Processing and sending printed matter), V (Money and monetary instruments) of these general terms and conditions are specifically applicable to one of these activities, whereas the provisions under I are and remain fully applicable as well.
3. The applicability of any purchase conditions or other conditions of the Customer is explicitly dismissed.
4. If any provision in these general terms and conditions is void or declared void, the other provisions of these general terms and conditions will remain wholly valid and Desk and Customer will enter negotiations in order to agree on new provisions to replace the void or annulled provisions that are as close as possible to the original aim and purpose of the void or annulled provision.

Article 3 Offer and Agreement

1. All offers and quotes made by Desk are free of obligation, unless explicitly indicated otherwise in the quote. Any offer or quote made by Desk that is not followed up within 14 days or within a period indicated in the offer or quote by a written order or an order by email from the Customer and confirmed by Desk, becomes invalid.
2. A compound estimate or quote does not oblige Desk to perform any part of the quote at the corresponding component of the price quoted. Quotes or offers do not automatically apply to future orders.
3. An Agreement between Desk and the Customer is entered into if and insofar Desk receives a signed copy of the contract returned by the Customer. An Agreement between Desk and Customer is also considered to have been entered into between Desk and Customer as soon as Customer gives Desk instructions in relation to the order to be performed by Desk and/or if Desk has already started to fulfil the Agreement in another way.
4. Further instructions and changes, within and also outside the framework of the Agreement must be recorded in writing between the Parties.
5. Unless agreed otherwise, the offer made by Desk does not involve (any obligation to enter into) any insurance policy - except for statutory professional indemnity insurance.
6. If the Customer indicates it as a requirement in writing to Desk, Desk will insure the other risks to the extent possible and at the customer's expense. Under no circumstances will the liability of Desk, should it exist despite the provision in the previous clause of this article, extend beyond passing on any insurance payments received by Desk to the Customer.

Article 4 Execution of the Agreement

1. Desk will always carry out its obligations under the Agreement in accordance with high standards. Unless the Parties agreed otherwise in writing in the Agreement, all obligations entered into by Desk are obligations to use its best efforts, not obligations to achieve a result.
2. Unless agreed differently by the Parties, Desk is authorised to work in any form for a company that is equivalent, similar or related to the Customer.

3. If it becomes apparent during the execution of the Agreement that it needs to be amended or supplemented in order to be carried out appropriately, the Parties will enter discussions to adjust the Agreement in good time and in mutual consultation. If the nature, scope or content of the Agreement is amended, whether upon request or indication of the Customer or of the authorities concerned or otherwise and if the Agreement is therefore amended in terms of quality and/or quantity, it may effect any original agreements between the Parties. The amount originally agreed between the parties may increase or decrease as a result. Insofar as possible Desk will indicate the cost in advance.
4. For a change in the Agreement as described in clause 3, the original delivery period may be amended. The Customer acknowledges that the Agreement may change in this respect, including in terms of cost and delivery period. Desk is authorised to refuse a request to change the Agreement without being in default of the Agreement as a result, if such change may have qualitative and quantitative consequences, for example for the work to be performed and the Goods to be supplied in relation to the Agreement.
5. If and insofar the Agreement relates to the services of Storage by Desk for the Customer, (arranging) freight, transferring the title and (arranging) delivery of Goods to third parties with whom the Customer has entered into a purchase agreement (which explicitly includes consumer sale and distance selling agreements), Desk will at all times be carrying out the Agreement under instructions from and as the direct representative of the Customer. In this connection, the Customer hereby grants Desk a general power of attorney unrestricted in time pursuant to book 3 section 62 of the Dutch Civil Code to carry out any legal actions and acts of disposition that are required for the storage, freight, transfer of title and delivery of the Goods.

Article 5 Hierarchically subordinate employees and auxiliary people

1. Unless the Parties agreed differently in writing, Desk is at liberty to engage auxiliary people in order to carry out the Agreement. Desk is equally as responsible for the actions and omissions of these auxiliary people while they are performing the work for which Desk engages them, as for Desk's own employees.
2. Agreements made by the Customer with the hierarchically subordinate employees of Desk or with auxiliary people engaged by Desk are not binding for Desk, unless those agreements are confirmed in writing by someone authorised to represent Desk. In this respect, all employees and/or auxiliary people engaged by Desk who are not authorised to represent Desk are considered hierarchically subordinate employees.
3. If the aforementioned auxiliary people or hierarchically subordinate employees outside the agreement are addressed about the work for which Desk has engaged them, Desk is stipulating in the interest of these auxiliary people or hierarchically subordinate employees that they can invoke all clauses in relation to exclusion or exclusion from liability in this agreement.

Article 6 Delivery periods

1. Any (delivery) periods specified by Desk are established to the best of its knowledge, based on information known to Desk when the Agreement is entered into and assuming that the Customer will provide the Goods and materials required to carry out the Agreement in time. Desk will endeavour to make the delivery within the relevant time; the mere fact of exceeding the indicated delivery period does not cause Desk to be in default.
2. Desk is not bound by delivery periods that cannot be attained due to circumstances outside its control, arisen after the Agreement is entered into. If there is a risk of any period being exceeded, Desk and the Customer will enter into discussions as quickly as possible and agree on an adjusted delivery period through appropriate consultation.

Article 7 Obligations / responsibilities of the Customer

1. The Customer is obliged to grant its co-operation and to keep providing Desk with all the information and details which it can reasonably assume are necessary for Desk to carry out the Agreement adequately. Customer must specifically verify whether the work to be carried out by Desk is subject to specific laws or regulations. If so, the Customer must inform Desk in time concerning the implications of the aforementioned laws and regulations for the performance of the Agreement by Desk.
2. If Desk does not get the necessary information and details - or not in time - required to carry out the Agreement in accordance with the arrangements, or if the Customer does not comply in another way with its obligations, Desk is in any case entitled to suspend the execution of the Agreement and also the right to charge for the ensuing costs incurred based on its usual rates.
3. Customer must enable Desk to carry out the Agreement, and to ensure the following, among other things, insofar as applicable to the Agreement concerned and at its own expense and risk:
 - that the Goods and materials to be delivered by the Customer to Desk for processing are delivered in time and carriage paid at the agreed place of delivery. If a delivery is not made 'carriage paid', Desk is entitled to invoice the Customer for the freight charges incurred;
 - that the necessary licences/dispensations to comply with the Agreement have been or will be granted in time by the relevant bodies or organisations and that they are physically present;
 - if preferred by Desk, that a competent representative of the Customer is present when the (preparatory) activities have been performed whether they are completed to satisfaction.
4. Customer guarantees Desk that it is in any case sufficiently insured against damage, caused as a result of any legal acts and/or factual acts and/or omissions attributable to the Customer and to any third parties engaged by or on behalf of the Customer.
5. The Customer guarantees to Desk that the Goods to be processed, stored and transported by Desk comply with the Dutch statutory and regulatory requirements, as well as the statutory and regulatory requirements of the country or territory where the Goods need to be delivered.
6. Desk can assume that any dimensions, numbers, quality, specifications and/or other information sent by the Customer to Desk in relation to Goods and Materials in the context of the performance of the Agreement are accurate. The risk for any inaccuracies in these specifications lies with the Customer.

Article 8 Price and payment

1. All prices are expressed in euro - net of value-added tax (VAT) and other levies imposed by the authorities. If prices are given in foreign currencies, the equivalent in euro indicated is only an approximation.
2. The prices for the delivery of Services and Goods are based on the cost of materials, freight, wages, insurance premiums, fiscal burdens, social insurance premiums, import duties, the price of postage and distributors, and other factors determining prices on the day of dispatch of the offer or quote. If there is any increase in any of the aforementioned factors determining prices, Desk is entitled to charge the Customer a pro rata increase through a written notification.
3. In the event of an Agreement in which the Customer pays periodic instalments, Desk is entitled to adjust the applicable prices and rates through a written notification giving two months' notice. In addition, Desk is entitled to adjust the agreed prices on an annual basis to the changes in the consumer price index, (2015 = 100), published by Statistics Netherlands (CBS). The amounts after indexation will never be lower than the amounts the Parties had agreed on before the indexation.

4. Customer will settle all invoices pursuant to the terms and conditions indicated on the invoice. In the absence of specific conditions, Customer will pay within fourteen days from the invoice date.
5. If the Customer does not settle the amounts due within the agreed period, the Customer will owe interest at the statutory rate on the outstanding amount without the need for a notice of default. If Customer remains in default of payment after receiving the notice of default, the claim may be passed on for collection, in which case the Customer will owe not only the total amount payable at that point, but also the total of the extrajudicial and judicial costs, including any costs charged by external experts on top of the legally established costs, in relation to the collection of the claim and of associated legal costs, which are determined at a level of at least 15% of the total amount.
6. The Customer is not entitled to offset any charges against the amounts owed to Desk. Any objections against the amount invoiced do not suspend the Customer's payment obligation.

Article 9 Security and deposit payments

1. Before starting or continuing with work and before making or continuing deliveries, Desk is always entitled to ask for sufficient security from Customer to guarantee compliance with payment obligations, including - but not limited to - the Customer putting up a bank guarantee or other guarantees for the benefit of Desk.
2. In addition to the provision in clause 1 of this article, in the event Desk is expected to make payments to third parties on behalf of the Customer, for example - but not only - in the context of refund actions, product refunds, loyalty programmes and/or other marketing and promotional actions, Desk is also entitled to request deposit payments from the Customer before the work starts in relation to the payments Desk needs to make to third parties on behalf of the Customer. The deposit payments concerned can also be expected from the Customer at interim moments (in the course of such actions). At the end of the term such action, Desk will ensure that the Customer has an adequate and detailed overview of the deposits paid by the Customer, the payments made to third parties and the amounts still payable by the Customer or by Desk. The payments of amounts by the Customer to Desk and vice versa are subjected to the provisions in article 8 clauses 4 and 5 in full.
3. If the expected security and/or requested deposit payments is not provided - or unsatisfactorily - by the Customer, Desk is entitled to suspend the performance of the work with immediate effect and/or to dissolve all or part of the Agreement without judicial intervention and to recover anything already supplied, without prejudice to Desk's entitlement to having the costs it incurred so far reimbursed by invoicing the amounts specified in the estimate.

Article 10 Retention of title/right of retention

1. Desk retains the title for all the Goods and Materials it produced and delivered or will deliver to the Customer until the time the Customer has made full payment of the price that was agreed for the Goods and/or Services, including payment of any claims made by Desk in the context of the delivery of Goods, or Services that were delivered or to be delivered, or otherwise, and of any claims Desk has on the Customer for any default in compliance with the Agreement with the Customer, including any collection costs, interest and fines.
2. Any rights in relation to the (use of) Materials as described below in article 14 are always granted to the Customer or, if applicable (only if and insofar the Parties made a written agreement to that effect) transferred under the suspensive condition that the Customer pays the agreed amounts on time and in full.
3. If and insofar Desk has Goods of the Customer in its possession, Desk is entitled to retain those Goods in its possession until when the Customer has fully settled its payment obligations arising from the Agreement and/or from any claims Desk has in the context of the delivery of the Goods, or of its past or future performance of services, or otherwise, and for any claim Desk has against the Customer based on the Customer's default of compliance with

the Agreement entered into, including collection costs, interest, fines and any additional storage and/or insurance costs in relation to the fact that Desk retained the Customer's Goods in its possession.

II. OWNERSHIP, STORAGE AND TRANSPORT OF GOODS

Article 11 Ownership, storage and transport of Goods

1. All the Customer's Goods stored by Desk pursuant to the Agreement and/or Customer's Goods to be transported remain the property of the Customer until the time when the Goods have been made available to the third party to whom Desk is required to deliver the Goods pursuant to the Agreement.
2. Loading, unloading, transport and dispatch of Goods by Desk is at all times for the expense and risk of the Customer, unless agreed differently in writing.
3. Any customs expenses, import and export charges in relation to transporting the Goods are at the expense of the Customer.
4. If and insofar Desk uses a Transport Company for loading, unloading and/or transporting the Goods in the context of the Agreement, the Agreement between Desk and the Customer are entirely subject to the applicable treaties, laws and regulations for the various modes of transport, as well as the (general) terms and conditions imposed by the Transport Company on the performance of the aforementioned Services. Upon the Customer's first request, Desk ensures that the Customer receives a copy of the terms and conditions applicable to the transport.
5. Unless agreed differently in writing, Desk is not obliged to insure the Customer's Goods that are stored by Desk for processing or for dispatch. At the Customer's request, Desk can arrange insurance for the Goods to be stored by Desk, and also insurance for Goods that are to be transported by a Transport company. Customer must inform Desk in such event on time and in sufficient detail with regard to the nature and value of the Goods to be insured.
6. Any damage caused by the Customer's Goods during storage, processing and distribution is entirely at the Customer's expense, unless the damage concerned is demonstrably caused by gross negligence and/or Desk's omission.

Article 12 Delivery of Goods to Desk

1. If the Agreement relates to the delivery by Desk of Goods to third parties on behalf of the Customer, the Customer needs to deliver the Goods to Desk in the location specified in the Agreement.
2. Customer must notify Desk in time in writing before the delivery of the intended time of delivery at Desk of the Goods to be processed, as well as notify Desk in writing in time of the nature/type, volume and/or quantity of the Goods.
3. Customer will package the Goods for delivery in line with the Customer's usual standards. Desk does not accept any liability for damage arisen to Goods and/or third parties due to inappropriate packaging.
4. If and insofar Desk observes when the Customer's Goods are delivered to Desk that Goods are damaged (visibly from outside), Desk will ask Customer for instructions or if and insofar the Customer's instructions cannot be obtained in time, Desk will be entitled to refuse taking delivery of the Goods.
5. Desk will deliver the Goods to third parties in the location the Parties have agreed. If no agreement is made to this effect, the place of delivery will be Desk's warehouse. The costs of this delivery are at the expense of Customer.
6. Desk does not provide any guarantee on Goods delivered to third parties on behalf of Customer.

Article 13 Return consignments of Goods

1. Without having given prior written consent, Desk is not obliged to accept return consignments from the Customer and/or third parties.
2. Taking delivery of return consignments does not in any event imply recognition by Desk of the grounds indicated by the Customer for the return consignment. The risk of any returned Goods remains with Customer until the Goods have been credited by Desk.
3. Desk reserves the right to perform the credit transactions arising from return consignments.
4. If and insofar Desk returns the Customer's goods through Desk's debtor number with PostNL, the return concerned takes place at Desk's expense. Desk will invoice the Customer for the costs of these return consignments.
5. If and in so far as Goods/packages sent by Desk on the instructions of the Customer are returned to Desk, because these Goods/packages have not been collected by the addressee, cannot be delivered or have been refused by the addressee, Desk will invoice the costs involved in the return consignment to the Customer.

Article 14 Intellectual or industrial property rights

1. All intellectual or industrial property rights for all Materials developed or made available pursuant to the Agreement, even if only for the development and/or production of Materials paid for by the Customer, are held entirely by Desk. Customer only obtains the user rights and powers in relation to the Materials that are explicitly granted in these conditions or explicitly assigned in the Agreement with Desk, and apart from that, Customer will not reproduce and/or publish the materials without the prior written consent of Desk.
2. Customer is aware of the fact that the Materials (may) contain confidential information and Desk's industrial secrets as well as personal information. Customer undertakes to keep the Materials secret, not to disclose or lend them to third parties, and to only use them for the purpose for which they are made available.
3. Customer is not entitled to remove or amend any indication concerning copyrights, brands, trade names or other rights concerning intellectual or industrial property from the Materials, including indications concerning the confidential nature and confidentiality of the Materials.
4. Taking into account the other provisions in these terms and conditions, Customer is entitled, after prior consultation with Desk on the subject, to improve errors in any Materials made available, if such should be necessary for the use of the Materials arising from their nature. Such improvement by the Customer does not prejudice the provisions in the previous clauses of this article.

Article 15 Information and copyrighted material originating from third parties

1. Desk is not responsible and/or liable for the accuracy of the information it receives from the Customer and/or third parties.
2. Desk excludes any liability for damage caused by the inaccuracy of information provided by Customer and/or third parties, except for damage as a result of Desk's intent or gross negligence.
3. If and insofar Desk needs to use information and/or copyrighted material of third parties in the context of the Agreement at the Customer's request, Customer is responsible for the timely acquisition of user licences for the aforementioned copyrighted material. Copyrighted material is understood to include, without being limited to: software, databases, fonts, portrait rights, rights to brands or trade names, user rights for pictures, audio or video material, house style elements and music. Customer will indemnify Desk against any action based on the allegation of third parties that making the material available, using or processing the material infringes any right of third parties.

Article 16 Confidential information and non-employment clause

1. Either Party undertakes that any information of a confidential nature received from the other party before and after the Agreement is entered into will be kept confidential. Information will in any case be treated as confidential if it is designated as such by either Party.
2. For the duration of the Agreement and for one year afterwards, neither party will recruit employees of the other party who were involved with the fulfilment of the Agreement, or allow them to perform work for it in any other capacity, directly or indirectly, except after a thorough business consultation with the other party.

Article 17 Complaints

1. Any complaints must be sent to Desk by registered mail at the latest within eight days from the delivery of Goods or Services concerned. Faults in part of the delivered work do not create a right to reject the overall delivery. Faults that could not reasonably have been noticed within the aforementioned period, must be reported to Desk within an appropriate time after the Customer noticed the fault of reasonably could have noticed the fault - but ultimately twenty days from the delivery of Goods or Services.
2. In the event the complaint is found to be well-founded, Desk will make every effort to ensure that the delivery of Goods or Services is still in line with the Agreement.
3. If and insofar the Customer has already taken some or all of the Goods supplied into use, has treated them or forwarded them to third parties, Customer will not be entitled to make any claim for damages against Desk pursuant to this article.
4. If the Customer does not complain within the deadline referred to in clause 1 of this article, it is deemed to have accepted the delivery.

Article 18 Termination

1. Either party is only entitled to terminate the Agreement if the other party remains in an attributable breach of compliance with the obligations arising from the contract, after being sent an appropriate notice of default with as many details as possible, in which a reasonable term is given to put right the default.
2. If an Agreement is entered into for an indefinite period, which does not end after completion in view of its nature and content, it can be terminated by either Party after an appropriate business discussion, with an explanation of the reasons, by giving written notice. If the Parties did not explicitly agree on a notice period, a reasonable notice period must be given, taken into account the nature and duration of the Agreement. No party will ever be liable for any damages if notice is given pursuant to the provision in this clause.
3. Either Party can terminate part or all of the Agreement without giving notice of default and without judicial interventions by giving notice in writing with immediate effect if the other party is granted a moratorium on payments - on a temporary or long-term basis, if a bankruptcy is applied for in relation to the other party or if the other party's business is wound up or terminated for reasons other than a restructuring or merger of companies. The party terminating the contract will never be liable for any damages based on such termination. If Desk is the party performing the termination in the context of this clause, any (user) rights granted to the Customer in relation to Materials will cease simultaneously and the aforementioned rights will revert fully and undiminished to Desk.
4. If the Customer has already received services as part of the Contract at the moment of the termination as referred to in clause 1 of this article, the services concerned and any associated payment obligation will not be included in the annulment, unless Desk is in default in terms of its performance. Any amounts Desk invoiced before the termination for work already performed or delivered made in the context of the Agreement, remain due undiminished, taking into account the provision in the previous sentence, and are immediately payable at the time of the termination.

Article 19 Liability of Desk; indemnification

1. Desk accepts the statutory liability for damage insofar it is apparent from the provisions in these General Terms and Conditions.
2. Desk does not accept any liability for damage caused through the fault or actions of the Customer, including for Goods or third parties for which the Customer is liable. Desk is not liable for damage caused by the actions or omissions of its employees if the damage occurs under instruction of or as a result of an instruction, advice or order from or other actions by (a representative or employees of) the Customer.
3. In addition to the exclusions from liability described in this article, Desk does not accept liability either for:
 - a) Damage arisen due to a good, product or system delivered by the Customer to a third party, through Desk or otherwise, regardless of whether it partly contained Goods, products or Materials supplied by Desk;
 - b) Damage arisen due to the delivery of a good, product or item, delivered through Desk or otherwise, regardless of whether the good, product or item contained Goods, products or Materials supplied by Desk, in a country/territory where the sale of such Goods, products or Goods turns out to be prohibited;
 - c) Damage arisen due to a delay in the delivery, loss, damage and/or destruction of Goods by a Transport Company engaged to carry out the Agreement;
 - d) Damage arisen due to a violation of laws and regulations as a result of marketing actions carried out by Desk at the Customer's request, for example, but not limited to, Media and sponsoring regulations, regulations of the Advertising Code Commission, laws and regulations on betting and Gaming, Dutch Telecommunications Act [Tw], and/or GDPR, etc.
 - e) Damage arisen as a result of (the content of) printed matter, mailings, letters, regardless of the technical method for distribution;
 - f) Damage caused by or due to an abuse and/or illegal actions of third parties in relation to data and/or information of the Customer stored by Desk on its servers/computer networks and/or sent by Desk via the Internet and/or other telecommunication networks;

Customer indemnifies Desk for all claims from third parties lodged in relation to the provision in clause 3.

4. The total liability of Desk due to an attributable default in complying with the Agreement is limited to damages only for direct loss up to the total price of the Agreement as a maximum (net of VAT and if applicable exclusive of invoiced cashback amounts). If the Agreement is mainly a continuing performance contract with a term exceeding one year, the agreed price is established at the total of the payments (net of VAT and exclusive of invoiced cashback amounts) agreed for a one-year period. In no event will the total reimbursement of direct damage ever exceed € 50,000 (fifty thousand euro).
5. Direct damage is exclusively interpreted as:
 - a. the reasonable and demonstrable costs incurred by the Customer to ensure that Desk's performance complies with the Agreement. This damage is nevertheless not reimbursed if the Customer has terminated the Agreement;
 - b. reasonable and demonstrable costs incurred by the Customer for needing to keep his old facilities operational for longer than anticipated out of necessity since Desk did not deliver on a binding delivery date, with deduction of any savings resulting from the delayed delivery;
 - c. reasonable and demonstrable costs, incurred to assess the cause and volume of damage, insofar the assessment relates to direct damage within the meaning of these terms and conditions;
 - d. reasonable and demonstrable costs, incurred for the prevention or limitation of damage, insofar the Customer demonstrates that these costs resulted in

- a restriction of direct damage within the meaning of these terms and conditions.
6. Liability of Desk for indirect damage, including for consequential damage, financial loss, loss of income and/or profit, missed savings, damage due to business interruption, damage to reputation and immaterial damage, is excluded.
 7. Without prejudice to the liability insurance described in the previous clauses of this article, the total liability of Desk for damage due to death or personal injury or for the material damage to Goods will under no circumstances exceed € 450,000 (four hundred and fifty thousand euro) per event, with the restriction that a series of interrelated events are considered as one event.
 8. De maximum amounts referred to in clauses 4 and 7 of this article no longer apply if and insofar the damage is caused by deliberate intent or gross negligence by Desk.
 9. The liability of Desk due to an attributable default in its compliance with an Agreement only arises if the Customer places Desk in default appropriately without delay, in writing, giving a reasonable term to rectify the default, and if Desk remains in attributable default of its obligations even after the term has expired. The notice of default must contain a description of the default that is as detailed as possible, hence giving Desk an opportunity to respond appropriately.
 10. Any right of damage is always conditional to Customer having notified Desk in writing of the occurrence of the damage as soon as possible after it arose.

Article 20 Force majeure

1. Neither Party is obliged to comply with any obligation if it is prevented from doing so as a result of force majeure. When the force majeure situation continues for longer than thirty days, the Parties have the right to terminate the agreement in writing. Any work already completed based on the Agreement will be invoiced on a pro rata basis, without the Parties owing each other anything else.
2. Force majeure is interpreted as: disruptions in Desk's hardware and/or software, disruptions in the Internet connection, disruptions in the telecommunications infrastructure, faults in the power grid and other networks, and faults as a result of illegal actions by third parties in relation to Desk's hardware and/or software, the Internet, and the other aforementioned networks.

Article 21 Applicable law and disputes

1. The agreements between Desk and Customer are governed by Dutch law. The applicability of the Vienna Sales Convention is explicitly excluded.
2. Any disputes that may have arisen between Desk and Customer as a result of any Agreement entered into by Desk with Customer or as a result of other agreements following on from such Agreement will be adjudicated by the competent court in Maastricht.

III IT SERVICES

Article 22 Duration

1. If the Agreement relates to performing IT Services, the Agreement is entered into for the duration agreed and recorded in writing between the Parties; in the absence of a written record, a one-year period applies.
2. The duration of the Agreement is each time tacitly extended by the same period as the originally agreed period, unless Customer or Desk terminate the Agreement in writing, taking into account a notice period of three months before the end of the period concerned.

Article 23 Performance of the IT Services

1. Desk will always perform the IT Services with care, pursuant to the procedures and agreements recorded in writing with the Customer.
2. Desk endeavours to make all suitable, technical and organisational measures to secure the results and Materials arising from the IT Services performed against loss or against any form of illegal use. These measures include an appropriate level of protection in view of the risks involved with processing and the nature of the information, taking into account the latest technology and the cost implications.
3. Customer will prepare and supply all information to be processed by Desk for the sake of the IT Services pursuant to the conditions specified by Desk. Unless agreed otherwise, Customer will bring the information to be processed and collect the results of the processing from the location where Desk performs the Data Processing.
4. If it is agreed that the service delivery will take place in phases, Desk is entitled to postpone the start of the IT Services that belong to a subsequent phase until Customer has approved the results of the previous phase in writing.
5. Transport and/or transmission of information and data always occur at the expense and risk of the Customer, even when performed or arranged by Desk.
6. Customer is responsible for ensuring that all Materials, information, Software, procedures and instructions it supplies to Desk for the data processing is always correct and complete, and that all data carriers provided to Desk meet Desk's specifications.
7. The accuracy of information provided by third parties is at the expense and risk of Customer.
8. All the equipment, Software and Materials used by Desk to perform the IT Services are and remain the property and respectively the object of intellectual and industrial property rights of Desk, even if Customer pays Desk a fee for the development or acquisition of them. Desk is entitled to retain possession of the information, data and data processing results until Customer has paid all the amounts it owes Desk.
9. Desk is entitled to make changes to the content of volume of the IT Services. If such changes result in an amendment to the Customer's usual procedures and/or result in costs for Desk, Desk will inform Customer as soon as possible and the costs of this change are at the expense of the Customer.
10. Desk will use its best endeavours to ensure that the Software it uses to perform the IT Services is adapted as well as possible to changes in relevant legislation or to other regulations issued by competent authorities. If requested, Desk will advise Customer at its standard rates on the consequences of these adjustments for the Customer.
11. Only if explicitly agreed in writing is Desk obliged to comply with the Customer's timely and responsibly provided instructions for the delivery of the services. Desk is not obliged to comply with instructions that amend the content or scope of the agreed services; however, if it complies with such instructions, the associated work will be reimbursed in conformity with article 25.
12. If use is made of telecommunication facilities, Internet facilities of third parties, Service Providers and/or Access Providers for the delivery of the IT services, Desk is not responsible nor liable for any (transmission) errors and/or faults in the (availability of the) aforementioned facilities that are not attributable to Desk.
13. Desk is under no circumstances liable for damage as a result of theft, loss, substitution, damage, burglary and theft of and destruction of information if third party facilities are used as described in the previous clause for the completion of IT Services. This exclusion of liability nevertheless does not apply if and insofar Desk is demonstrably guilty of deliberate intent and/or gross negligence.

Article 24 Guarantee

1. Desk does not guarantee that the performance of the IT Services will be entirely free of errors. In the event of any imperfections in the results of the IT Services are a direct result of products, Software, data carriers, procedures or operator conduct for which Desk is explicitly responsible pursuant to the Agreement Desk will repeat the execution of the IT Service concerned as soon as possible to its best ability in order to put right the imperfections concerned, provided the information required to repeat the IT Service is still available and Customer reports the imperfections as soon as possible to Desk in detail and in writing, but no later than within one week from receipt of the results. The repeat service will be carried out free of charge.
2. If the imperfections cannot be attributed to Desk, Customer can request Desk to repeat the IT Service concerned, in which case Desk will invoice for the associated costs.
3. If Desk is not reasonably able to put right any imperfections attributable to Desk, Desk will be credit Customer for the amounts Customer owes Desk for the IT Service concerned, without Desk being additionally or otherwise liable to Customer.

Article 25 Changes and additional work

1. If Desk has carried out work or other activities at the request or with the prior consent of Customer outside the content or scope of the IT Services set out in the Agreement, the Customer needs to pay Desk for these activities or works at Desk's standard rates. However, Desk is not obliged to comply with such request and it may require that a separate written (supplementary) Agreement is entered into for the purpose.
2. Customer accepts that such work or activities as referred to in clause 1 of this article may affect the agreed or anticipated time of completion of the IT Services, and the mutual responsibilities of Customer and Desk.
3. Insofar a fixed price is agreed for the IT Services and the Parties intend to enter into a separate (supplementary) Agreement in relation to the additional work or activities, Desk will inform Customer in advance in writing of the financial consequences of the additional work or activities.

Article 26 Delivery and approval

1. If and insofar it is applicable to an Agreement in relation to IT Services, Desk will deliver the results derived from the IT Services to Customer in conformity with the written specifications.
2. If it is agreed that the results must be approved in writing, the period within which the Customer can do this is fourteen days from delivery. During the inspection period, Customer is not allowed to use the results concerned for productive or operational purposes.
3. The result of the IT Services performed by Desk will be considered as accepted between the Parties as follows:
 - a. in the event the Parties did not agree on a test period: upon delivery;
 - b. in the event the Parties agreed the Customer would give written approval: either on the first day after the test period, or;
 - c. in the event Desk receives an approval report before the end of the test period at the time when any faults listed in the approval report are corrected, regardless of the presence of imperfections that do not prevent approval pursuant to clause 6 of this article.
4. By derogation from the previous clause, the result of the IT Services will already be deemed accepted if the Customer already uses it for productive or operational purposes before giving its approval, from the moment the result is first used by the Customer.
5. If it emerges during the performance of the agreed assessment that the result of the IT Services contains errors that impede the continuation of the assessment, Customer will inform Desk of it in detail, in which case the assessment period is suspended until the data are amended so as to eliminate the impediment.

6. If it emerges during the performance of the agreed assessment that the results of the IT Services contain errors, Customer will notify Desk ultimately on the last day of the assessment period by means of a written and detailed test report with information concerning the errors. Desk will do its utmost to put right the faults reported within a reasonable period as part of which Desk is entitled to propose temporary solutions, workarounds or problem-avoiding restrictions in the data.
7. The approval of the processed information and/or aforementioned results must not be withheld on grounds other than those based on the specifications that were explicitly agreed between the parties, and furthermore not because of the existence of minor errors, which are errors that do not reasonably interfere with the operational or productive commissioning of the processed data, and in any case not based on errors affecting less than 2% of the total of processed data, without prejudice to Desk's obligation to correct small errors in the context of the guarantee provision in article 28, of applicable.
8. If the processed information and/or results from IT Services is delivered in phases and/or sections and tested, the non-approval of a particular phase and/or part does not prejudice the approval of previous phases and/or other sections.
9. For any reference in these general terms and conditions to rights or obligations in relation to errors, 'errors' must be understood as meaning the failure by Desk to meet the agreed functional specifications of the results in terms of IT Services to be provided by Desk, communicated by Customer to Desk in advance. An error only exists if it can be demonstrated and reproduced. Customer is obliged to report any errors to Desk without delay.

Article 27 User right

1. Without prejudice to the provision in article 14, Desk grants Customer the exclusive user right for the data, the results and Materials arising from the IT Services for the duration specified in the Agreement. Customer will nevertheless need to comply strictly with any user restrictions agreed between the Parties.
2. The Customer is not allowed to use the results of IT Services (for example, websites/web shops, etc.) for actions and/or conduct contrary to current statutory provisions or for conduct that is otherwise contrary to the public order and/or what is generally considered to be socially acceptable. This includes - but is not limited to - the following actions and conduct:
 - Sending unsolicited emails (spam);
 - The illegal infringement of copyrighted material of third parties or other breaches of intellectual property rights of third parties;
 - The distribution and/or publication of illegal and/or criminal data, including racist statements, (child) pornography, criminal data traffic, offensive statements and/or sexual intimidation and/or violating the privacy of third parties;
 - The illegal intrusion of other computers or computer systems on the Internet (hacking);
 - Acting contrary to the provisions of the GDPR.
3. Desk does not accept any liability for damage to the Customer and/or third parties as a result of the provision in the previous clause. Customer indemnifies Desk against any claims from third parties in this respect.

Article 28 Guarantee

1. For a period of three months after delivery, or in the event the Parties agreed on an assessment test prior to approval, for three months after the approval, Desk will do its utmost to correct any errors in the results arising from the IT Services if they have been reported to Desk in writing and in detail within that period. Desk does not guarantee that the aforementioned results from IT Services will work entirely free of errors or that all errors will be corrected. Any corrections will be performed free of charge. Desk can charge its standard

- rates and the costs of the correction work in the event of user error or improper use by the Customer, or of other causes not attributable to Desk, or if the errors could have been established during the assessment before the approval. The retrieval of damaged or lost data is not covered by the guarantee. The guarantee obligation ceases to exist if Customer makes changes or arranges for changes to be made to the data without Desk's written consent.
2. The correction of errors will take place at a location to be specified by Desk. Desk is entitled to implement temporary solutions, workarounds or problem-avoiding restrictions in the data.
 3. After expiry of the guarantee period referred to in clause 1 of this article, Desk is not obliged to correct any errors.

Article 29 The processing of Personal Data and consumer data

1. The provisions of the GDPR apply undiminished to the processing of Personal Data in the context of the Services to be provided by Desk for Customer. In this respect, the Customer is designated as the 'controller' within the meaning of Article 4, paragraph 7, of the GDPR whereas Desk must be designated as 'processor' within the meaning of Article 4, paragraph 8 of the GDPR. The personal data to be acquired by Desk in the context of the Agreement are also governed by the provisions of the Telecommunications Act (TW), more specifically section 11.7 TW.
2. For the fulfilment of the agreement, Desk will comply with all obligations under the GDPR and TW insofar its responsibility extends as 'processor'. The agreements made between the parties relating to Desk's responsibility as processor within the meaning of the GDPR have been laid down in a separate Data Processing Agreement. The Data Processing Agreement is an integral part of the Agreement. In the case of conflict between the provisions in the Agreement, these general terms and conditions or the Data Processing Agreement, the provisions in the Data Processing Agreement will prevail.
3. Customer must explicitly inform Desk of the purpose for which the Personal Data is to be processed at the time it gives Desk an order for processing Personal Data. The purpose concerned must always be in compliance with the provisions of the GDPR.
4. Desk will only process the Personal Data in the context of the purpose specified by the Customer. Desk will therefore never decide independently to proceed with a specific processing of Personal Data.
5. Customer declares to be aware of and to agree with the fact that, considering the provisions of the TW, Desk:
 - a. must ensure that it can always demonstrate during any use of automatic call systems without human intervention, faxing and electronic messaging to transfer unsolicited communication for commercial purposes, that the consumer who was sent a message gave prior consent (for example, but not limited to an opt-in system);
 - b. for the acquisition of electronic contact data as part of its fulfilment of the Agreement must always ensure that the consumer is given a clear and explicit opportunity to object free of charge and in an easy way against the use of those electronic contact details (for example, but not limited to an opt-out facility) and if the consumer did not use the facility, the same facility to object under the same conditions against continued use of his electronic contact details must be available in every communication transmitted.Customer must ensure that the data it supplies to Desk and that Desk is expected to process complies with these requirements.
6. The Customer must ensure that the objectives of the processing, the manner of processing, as well as the rights of the data subjects in the context of the GDPR are laid down in a privacy statement of the Customer.
7. In the course of all activities to be performed by Desk for the Customer, Customer ensures that the files to be used have been cleaned in advance to delete any (customer) contacts

- who exercised their right to object based on the GDPR and/or who registered with the Telephone Preference Service ('Don't call me register').
8. If a consumer indicates during a contact with Desk that he no longer wishes to be approached by or on behalf of Customer, Desk will pass this on to Customer. In that case, Customer is responsible to observe that consumer's right to object to further contact. When a consumer indicates that he generally objects to being contacted, Desk will inform the consumer concerned of the Telephone Preference Service. Employees of Desk are all aware of the regulations concerning consumer rights in relation to the Telephone Preference Service and the Right to object against being contacted.
 9. The Parties indemnify each other against any claims from third parties, damage and costs in relation to a failure to comply with their respective role as 'processor' (Desk) and 'controller' (Customer) within the meaning of the GDPR.

IV PROCESSING AND SENDING PRINTED MATTER

Article 30 Obligations of the Customer

1. In the event the Agreement involves processing/sending printed matter, Customer must ensure that the printed matter to be delivered or dispatched is delivered ready-folded in bundles, or supplied to Desk in equal part-deliveries, in parts of 10,000 items if applicable. If the printed matter is not supplied in this manner, Desk is entitled to refuse the consignment or to charge additional costs. Packaging must result in packages containing equal quantities. Both the quantity per package and the content of the package must be clearly marked on the outside.

Article 31 Delivery and delivery periods

1. The margin for set-up waste, typing errors and/or routine errors is set to a maximum of 3% of the material to be dispatched or delivered.
2. The delivery date of mailings, lists, printed matter, etc. is always interpreted as the date when Desk delivered the material to the postal services or to its transport company for dispatch, rather than the date of receipt by the addressees.
2. For any printed matter, letters, mailings, samples sent 'Postage paid' or by metered post, the quantities sent and date of despatch are those on the receipt provided by the postage company.

V MONEY (AND DOCUMENTS/MONETARY INSTRUMENTS AND/OR RIGHTS) THAT DESK HAS IN ITS POSSESSION FOR CUSTOMER AND/OR THIRD PARTIES

Article 32 Forwarding payments to third parties

1. In the event Desk is expected to forward payments from Customer on behalf of Customer to third parties, Desk will do it in conformity with the Agreement. Desk does not accept any responsibility and/or liability in relation to the forwarding of those payments other than arising from intent and/or gross negligence on Desk's side.

Article 33 Forwarding payments to Customer

1. If Desk has money in its possession received from third parties to be forwarded to Customer, Desk will do it in conformity with the Agreement. However, Desk does not accept any responsibility and/or liability except that arising from intent and/or gross negligence on Desk's side.

Article 34 Errors

1. Any errors made in or at the time the transfers are made that are not intentional and/or due to Desk's gross negligence are never at Desk's expense. Desk excludes any liability in that respect except in the event of intent or gross negligence.
2. If Goods carry a monetary value and/or rights, Desk's liability in relation to those Goods is limited to the amount that is paid out under Desk's insurance policy in the case concerned. Desk has only taken out an insurance policy in relation to the storage of Goods and valuable papers that carry a monetary value and/or rights. Reference is made to the provision in article 11 clause 5 for the insurance of the aforementioned Goods and valuable papers during transport and/or freight. In the event of loss due to damage and/or destruction of the aforementioned Goods and valuable papers during storage at or by Desk, which loss is covered by the aforementioned insurance, only the reprint value of the aforementioned Goods and valuable papers is refunded up to an insured amount of € 1,250,000,- (one million two hundred and fifty thousand euro).

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