



## GENERAL TERMS AND CONDITIONS

### Definitions

Contractor: VITALITEIT360,

registered with the Chamber of Commerce in Amsterdam under number 34262987 and located at Vlinderweg 310, 1432 MX Aalsmeer.

Client: the customer, coachee and/or student of VITALITEIT360.

### Article 1. General

1. The agreement shall come into force by the general terms and conditions at hand together with the confirmation of order signed by the client and the contractor.
2. These general terms and conditions shall be applicable to any and all offers, quotations and agreements between the contractor and a client, insofar as the parties not explicitly deviate from these general terms and conditions.
3. The applicability of any purchasing terms and conditions and/or any other terms and conditions of the client is expressly denied.

### Article 2. Coming into effect of the agreement and quotations

1. Quotations by the contractor shall be based on the information supplied by the client. The client warrants that he has timely and truthfully supplied all information that is essential for the planning, execution and completion of the order.
2. All quotations and offers by the contractor shall be free of obligations, unless the quotation states an acceptance term. If no acceptance term is stated, no right in any manner whatsoever can be derived from the quotation or offer.
3. The agreement shall come into effect as per the day of signing by the contractor or the day of sending the written confirmation of order by the contractor to the client respectively.
4. In case the contract is not coming into effect, the costs of producing support materials such as policy plan, project plan e.g. will be charged.

### Article 3. Execution by third parties

1. The contractor shall have the right, insofar as this is required for a proper execution of the agreement, to have the order partly carried out by third parties. The contractor shall only proceed thereto after consultations with the client.
2. The applicability of article 7:407 paragraph 2 of the Dutch Civil Code is hereby expressly excluded.

### Article 4. Execution of the order

1. The contractor shall observe the care of a good contractor in the execution of his activities.
2. By force of the agreement, the contractor undertakes a best efforts obligation and therefore does not provide any guarantees concerning the results of the order, unless explicitly determined otherwise.





## **Article 5. Changes of the order**

1. Changes in the order by the client that could not have been foreseen by the contractor and that entail additional work, shall be paid by the client to the contractor pursuant the rate agreed in the agreement. Additional work shall furthermore be the rescheduling of activities by the contractor if this is required as a result of supplying incorrect or incomplete data by the client. The contractor shall invoice the costs for additional work to the client on the basis of a subsequent calculation.
2. The client shall timely inform the contractor in writing of any changes in the execution of the order requested at a later time by the client after confirmation of the order. In the event that these changes are not supplied in writing, the risk of the execution of such changes shall be to the account of the client.
3. Changes made in an order that has already come into effect, may result in the fact that the originally agreed delivery time shall be exceeded by the contractor.

## **Article 6. Cooperation of the client**

1. The client shall at all times, thereto requested and at his own initiative, supply all relevant information to the contractor that is required for a correct execution of the order granted.
2. If information required for the execution of the agreed order, is not or not timely or not in agreement with the arrangements entered into made available, or if the client has not met his (information) obligations, the contractor shall have the right to suspend the execution of the agreement.
3. In order to let the execution of the order proceed orderly and as far as possible according to the time schedule, the client shall timely make staff from his own organization available, unless the nature of the order determines otherwise. The client shall ensure that his staff has the proper information, skills and experience to carry out the activities.
4. If and insofar as the contractor requests such, the client shall supply the contractor at his premises and free of charge a private workspace with telephone and, if so desired, a data net connection, a lockable dressing room, an available sound system with I-phone/I-pad and/or USB connection, unless the nature of the order determines otherwise.
5. If there are ensuing costs to the contractor as a result of the fact that the client has not, not timely or not properly made staff, requested data, documents and facilities available, such costs shall be to the account of the client.

## **Article 7. Confidentiality**

1. The client and the contractor shall be held to secrecy of all confidential information that they have acquired from each other within the framework of the agreement or from any other source. Information shall be considered confidential when this has been indicated as such by the other party or when this ensues from the nature of the information.
2. If the contractor, on the grounds of a legal condition or a court order, is held to supply confidential information to a third party appointed thereto by law or the competent court and the contractor cannot appeal to any entitlement to refuse to give evidence, the





contractor shall not be held to any compensation or redress for damages and the client shall not have the right to annul the order on the grounds of any resulting damages.

3. The client and the contractor shall impose their obligations on the grounds of this article to any other third parties to be commissioned by them.

## **Article 8. Intellectual property**

1. All models, methodologies, work, artistic expression (physical movement), film and photographic material developed by the contractor on behalf of the client are and shall remain the property of the contractor. This shall include all intellectual property rights including but not limited thereto, any copyrights and/or design rights.

2. All documents, such as methods, methodologies, reports, advices and contracts issued by the contractor on behalf of the client, may be used by the client and may be multiplied by the client for his own use within the own organization. The documents supplied by the contractor may not be made public, multiplied and/or exploited or made known to any third parties by the client unless the nature of the supplied documents determines otherwise.

3. By accepting the order the client gives permission to the contractor to use the produced film and photographic material for promotional purposes.

## **Article 9. Rates**

1. If, after the agreement has come into effect, but before the order has been completed, rate-determining factors (e.g. prices) are subject to change, the contractor shall be entitled to change the previously agreed rate accordingly.

2. The client shall have the right to annul the order if the increase constitutes more than 10%. If the authority to increase the rate ensues from an authority pursuant the law, the client shall not have not have the right to annul the order.

3. The fee of the contractor is exclusive of: expenses of the contractor, invoices by commissioned third parties, VAT and other levies that are or may be imposed by the authorities.

## **Article 10. Terms of payment**

1. Payment shall be effected in advance in a manner to be indicated by the contractor denominated in euro. Any objections against invoice amounts do not suspend the payment obligation by the client.

2. If the client fails to timely pay an invoice, the client shall be legally in default and the legal interest is due by the client. In such a case the client shall pay interest on each month or any part thereof, whereby any part of a month is considered an entire month. The interest on the amount due shall be calculated from the time that the client is in default until the time of payment of the entire amount that is due.

3. In the event of liquidation, bankruptcy (filing), attachment or (preliminary) suspension of payment of the client or when the Debt Repayment Natural Persons Act (WSNP) has been declared applicable to the client, the claims of the contractor on the client shall immediately become payable.

4. Payments shall in the first place serve to reduce the costs, secondly to reduce the arrear interest and finally to reduce the client amount and the accrued interest. If the client





assigns a different order for the attribution of the payment, the contractor shall have the right to refuse an offer to pay, and this shall not constitute an omission on his part. The contractor may refuse the full payment of the client amount, if this payment does not include the arrear and accrued interest and collection costs.

5. The client shall never be entitled to settlement of what he is due to the contractor.

6. If the client is in default or fails to (timely) fulfil his obligations, all reasonable costs for the out of court collection shall be to the account of the client. The out of court costs shall be calculated on the basis of what is customary in the Dutch collection practice, at this time the calculation method according to Dutch national directive for the courts of 2000 to calculate out of court collection costs (Rapport Voorwerk II).

7. The contractor may at all times require further security, in the absence whereof the contractor may suspend the execution of the agreement. If this requirement is not met to the satisfaction of the contractor, the contractor shall have the right to suspend the execution of, or to refuse all agreements with the client, without being held to any compensation for damages and without prejudice to any other of his right in this agreement or by law.

## **Article 11. Complaints and investigations**

1. The contractor has to be informed in writing of complaints with respect to activities carried out and/or with respect to the invoice amount within two weeks after completion of the activities at the latest date, in default of which any claim against the contractor shall become void.

2. Complaints as referred to in paragraph 1 of this article, do not suspend the payment obligations of the client.

3. If and insofar as a complaint is accepted, the client may choose between adjusting the invoiced fee or improving or once again carrying out the rejected activities free of charge. If carrying out the activities has verifiably become useless, the client is entitled to a pro rata restitution of the fee already paid by the client.

## **Article 12. Time for performance**

If within the duration of the order a term has been agreed for the completion of certain activities, this term shall never be final. When the performance time is exceeded, the client shall declare the contractor in writing to be in default.

## **Article 13. Annulment**

1. Both parties may prematurely terminate the agreement at all times in writing with due observance of a reasonable term of minimal one (1) month.

2. If the client prematurely terminates the agreement, the contractor shall be entitled to compensation in view of the resulting occupancy loss which has to be made plausible, whereby the average monthly invoice amount to date is taken as the starting point. The compensation results in at least a minimum of three (3) months, unless the termination is based on facts and circumstances that may be attributed to the contractor. The preliminary results of the activities carried out up to that time, shall conditionally be made available to the client.





3. In the event that one of the parties becomes bankrupt, requests suspension of payment or ceases its activities, the other party shall have the right to prematurely terminate the agreement without any requirement to observe a term of notice.

4. In the event of premature termination by the contractor, the client shall be entitled to the cooperation of the contractor concerning the transfer of activities to be carried out to any third parties. When the transfer of the activities incurs additional costs to the contractor, the client shall be charged for any such costs.

## **Article 14 - Liability**

1. The contractor shall not be liable for any damages of whatever nature that arise from the fact that the contractor has based himself on incorrect and/or incomplete data supplied by client.

2. Should the contractor be liable for any damages whatsoever, the liability of the contractor shall be limited to the invoice amount, at least to that part of the amount to which the liability is related.

3. The liability of the contractor shall in each case always be limited to the amount paid up by his insurer in such an event.

4. The contractor shall exclusively be liable for direct damages.

5. Direct damages shall exclusively be the reasonable costs to establish the cause and the scope of the damage, insofar as the establishment relates to damages in the sense of these general terms and conditions, any reasonable costs incurred to bring the faulty performance by the contractor in line with this agreement, insofar as these may be attributed to the contractor, and reasonable costs, incurred to prevent or limit the damage insofar as the client proves that these costs have resulted in a limitation of the direct damages as referred to in these general terms and conditions.

6. The contractor shall never be liable for indirect damages, including consequential damage, loss of profit, missed savings and damage through stagnation of work.

7. Contractor is not liable for any injury to students during and after participating in classes, trainings, workshops and/or workouts.

Students are required to report any physical complaints before the class, training, workshop and/or workout to the contractor (teacher, trainer, coach).

## **Article 15. Indemnification of third parties**

1. The client indemnifies the contractor against any possible claims by third parties who incur losses in relation to the execution of the agreement and the cause of which cannot be attributed to the contractor.

2. The client shall be held to support the contractor in and out of court in the event that the contractor is addressed on the grounds of the first paragraph of this article and to immediately take all actions that may be expected from him in such a case. When the client is in default with respect to taking adequate measures, the contractor, without any requirement for a notice of default, shall be entitled to proceed thereto himself. All costs and damages on the side of the contractor and third parties resulting thereof, shall fully be to the account and risk of the client.





## **Article 16. Time limit**

In deviation of the legal time limits, the time limit of all claims and defences with respect to the contractor shall be one year.

## **Article 17. Contract transfer**

1. The client shall not have the right to transfer any obligation from the agreement to third parties without the written consent of the contractor. Insofar as the contractor may have given written permission for a contract transfer, the client shall at all times be jointly liable with such third party for the obligations from the agreement of which these general terms and conditions constitute a part.

2. Furthermore, insofar as the contractor may have given written permission for a contract transfer, the client shall inform the contractor in advance thereof and the contractor shall have the right to terminate the agreement as per the date on which the transfer comes into effect. The contractor shall not be held to pay any compensation for damages in such an event.

## **Article 18. Applicable law**

1. This agreement shall be governed by the law of the Netherlands.

2. All disputes concerning the agreement at hand and the execution thereof arising between the parties, shall exclusively be submitted to the competent court of the place of residence of the contractor.

## **Article 19. Processing of personal data**

1. All personal data of the client will be processed properly and carefully. The personal data are processed in accordance with the 'Wet Bescherming Persoonsgegevens' and 'Algemene Verordening Gegevensbescherming' during execution of the agreement.

The contractor refers to the Privacy Statement on the VITALITEIT360 website for further information.

2. In addition to the previous paragraph 1, the contractor advises that appropriate technical and organizational measures will be taken to protect the personal data against loss or any other form of unlawful processing, while taking into account the current state of technique and the nature of processing.

Aalsmeer, April 2018

