

# Terms and Conditions Deltavorm BV

## Article 1 Definitions

1. Deltavorm: Deltavorm BV, the user of these terms and conditions, registered with the Chamber of Commerce as number 22055577, with its statutory seat in Scharendijke.
2. Client: the natural or legal person, or at least acting in the exercise of a profession or business, with whom Deltavorm has concluded an agreement.
3. Agreement: the agreement reached between Deltavorm and the client in which Deltavorm undertakes to design and deliver products, according, or not according, to the specifications of the client.
4. Products: the products that Deltavorm designs and produces in respect of the agreement.
5. Written: written communication in these terms also covers electronically mediated communication.

## Article 2 General provisions

1. These terms and conditions apply to every offer and every agreement reached between Deltavorm and the client.
2. These terms and conditions shall also apply to contracts for the execution of which third parties are involved by Deltavorm.
3. The applicability of the client's own purchasing or other terms and conditions is hereby expressly ruled out.
4. Deviation from these terms and conditions is only valid in the event of it being expressly agreed in writing. If the provisions in the agreement deviate from the provisions of these terms and conditions, the agreement shall apply.
5. In the event of one or more of the provisions in these terms and conditions being made fully or partially null and void at any time, the other provisions will remain fully applicable. In that case, the parties will enter into consultation in order to make an alternative arrangement in respect of the affected clause. The purpose and intent of the original provision shall be taken into account in this alternative arrangement.

## Article 3 Offers and conclusion of the agreement

1. Unless a deadline for acceptance is given, any offer from Deltavorm is free of obligation. Deltavorm is never obliged to accept an assignment or order.
2. Deltavorm cannot be held to its offers or proposals if the client should reasonably understand that the offer or proposal, or a part thereof, contains an apparent mistake or typing error.

3. The client cannot derive any rights to an offer that is based on incorrect or incomplete data provided by the client.
4. A compound quotation shall not oblige Deltavorm to execute part of the assignment against a corresponding part of the given quotation.
5. Offers and quotations never automatically apply to future agreements.
6. The agreement is concluded at the time that the offer from Deltavorm is accepted by the client in writing. Telephone orders or instructions from the client are not binding for Deltavorm until and in as much as they have been confirmed by Deltavorm in writing.
7. If the acceptance deviates from that stated in the offer or proposal, Deltavorm will not be bound to it. The agreement shall in such event not be concluded in accordance with said deviating acceptance, unless indicated otherwise by Deltavorm.
8. If the client concludes the agreement on behalf of another natural and/or corporate body, the client claims to be authorized to do so by the conclusion of the agreement. The client, in addition to this (legal) person, is jointly and severally liable for the fulfillment of all obligations arising from that agreement.

#### **Article 4 Content of the agreement and obligations of the client**

1. The agreement is governed by the provisions of these terms and conditions, the contents of the agreement and all written agreements between the parties, documented after the conclusion of the agreement.
2. With regards to design work Deltavorm exclusively binds to an obligation on a best efforts basis. If Deltavorm provides digital design concepts of the deliverables to the client, these designs provide a true representation of the offer. Slight size deviations and other reasonably tolerable deviations do not offer grounds for complaints, suspension or termination of the agreement.
3. If the offer or contract mentions completion or delivery times, these concern only indicative, non-binding deadlines. In the event of a delivery not being made on time if there is an agreed deadline in place, the client should send written notice of default to Deltavorm, in which it proposes a reasonable time to Deltavorm, which enables Deltavorm to meet and fulfill the agreement at the end of the latter period if fulfillment still has not taken place.
4. The client is obliged to provide to Deltavorm all information reasonably relevant to the design and implementation of the agreement.

#### **Article 5 Delivery and risk**

1. At any time, Deltavorm reserves the right to deliver sold products in parts.
2. If the products could not be delivered due to circumstances attributable to the client, Deltavorm will store the products at the expense and risk of the client, notwithstanding the client's obligation to pay the purchase price. All costs made, damages and interest in the matter, shall be borne by the client.

3. Notwithstanding the preceding paragraph, the risk of loss and damage shall be transferred to the client at the time the products are made available to the client.

#### **Article 6 Suspension and termination**

1. If the client terminates an agreement, the client shall be required to compensate Deltavorm for any damages it consequently suffers.

2. Deltavorm is entitled to suspend the execution of the agreement or, if the circumstances justify termination, to terminate the agreement with immediate effect if:

- the client does not comply with the obligations stated in this agreement in full or in a timely fashion;
- after the agreement has been concluded, Deltavorm learns of circumstances giving good ground to fear that the client will not fulfill its obligations.

3. If the client liquidates or discontinues its company, is declared bankrupt, requests suspension of payment, is subject to seizure of goods, or where the client otherwise has no free disposal of capital, Deltavorm is entitled to terminate the agreement with immediate effect.

4. Furthermore Deltavorm is entitled to terminate the contract if circumstances arise of such a nature that fulfillment of the contract is impossible or if unaltered maintenance of the contract cannot reasonably be demanded.

5. All costs and damages related to the suspension and / or termination of the contract shall be borne by the client.

6. The client is never entitled to any claim for compensation for damages or costs in relation to the exercise of termination and suspension rights under this article by Deltavorm.

7. If Deltavorm terminates the agreement under this article, all claims against the client shall be immediately due and payable.

#### **Article 7 Cases of force majeure**

1. Deltavorm is not required to meet any obligation under the agreement, if it is prevented to do so due to a circumstance that is not attributable to Deltavorm as a force of law, legal act or generally accepted practice. This shall also include a breach of a valid agreement, between Deltavorm and an engaged third party, which cannot be attributed to Deltavorm and obstructs the fulfillment of the agreement between Deltavorm and the client.

2. During the force majeure event the obligations of the parties are suspended. If the force majeure lasts longer than three months, both parties are entitled to terminate the agreement without any party being entitled to claiming any compensation.

3. If Deltavorm already fulfilled its obligations partially, or can only partially fulfill its obligations during the onset of the force majeure situation, Deltavorm is entitled to separately invoice the work already performed, respectively the executable part of the agreement, as if it were an independent agreement.

## **Article 8 Complaints**

1. The client is obliged to check the nature and quantity of the delivered goods upon receipt. Unless evidence to the contrary is provided, the packing slip provided by Deltavorm determines the nature and quantity of the products delivered.
2. Deltavorm must be notified of complaints in writing within 5 working days after accepting delivery of the products.
3. If the client does not claim in time, all relevant rights to the client expire.
4. If a complaint is proven to be well-founded by Deltavorm, the client can claim to supplement the missing part, or replace of the defective product. Termination of the agreement, or compensation of damages is excluded.
5. In the case of a complaint, the client must give Deltavorm the opportunity to investigate the delivered products, or have them investigated. If it is necessary for assessment by Deltavorm, the client must return the products. The client must never return products without written permission from Deltavorm.
6. If a complaint appears unfounded and / or poor performance cannot be attributed to Deltavorm, the research costs incurred by Deltavorm and the cost of any return shall be borne by the client. If the complaint appears justified and can be attributed to Deltavorm, the costs of any return shall be borne by Deltavorm.
7. Complaints never give the buyer the right to suspend payments.

## **Article 9 Prices and Payments**

1. Unless explicitly stated otherwise, all prices are exclusive of VAT and other governmental levies.
2. Unless explicitly stated otherwise, the agreed product prices exclude shipping and delivery costs. The referred costs will be borne by the client.
3. At any time, Deltavorm is entitled to claim (partial) payment of the agreed price. In that case Deltavorm is not obliged to implement the agreement until the advance payment concerned is paid in full.
4. If, after conclusion of the contract, price increasing factors arise, on which Deltavorm has no influence, Deltavorm is entitled to adjust the agreed price accordingly.
5. Unless explicitly stated otherwise, payments must be made within 21 days of the invoice date, in the manner prescribed by Deltavorm.
6. If timely payment is not made, payment default by the client is legally entered into. From that moment, the statutory interest valid at the commencement of the payment default, is borne by the client. The statutory interest will be calculated until the day that the outstanding payment has been made in full.

7. All reasonable costs incurred in settlement of payments of which the client is, or has been, in default, are borne by the client. The extrajudicial costs are calculated on the basis of Dutch collection practices, currently under the “Wet Incassokosten 2012” (Act Collection Costs 2012).

#### **Article 10 Liability and Indemnification**

1. Except for willful misconduct and gross negligence, Deltavorm is not liable for any damages, including loss, loss of profits and damages resulting from business interruption.

2. If, despite the provisions of these terms and conditions, a legal basis for liability exists, Deltavorm can only be liable for direct damages. Direct damage is exclusively defined as:

- the reasonable costs incurred to establish the cause and extent of the damage, insofar as this relates to direct damage as referred to in these conditions;
- any reasonable costs incurred to meet the agreement, as far as this can be attributed to the poor performance of Deltavorm;
- reasonable costs incurred to prevent or limit damage, if the client demonstrates that said costs have led to the limitation of direct damage as referred to in these terms and conditions.

3. The liability of Deltavorm is in any case limited to the agreed price of the order, or at least that part of the order to which the liability relates.

4. Notwithstanding the preceding paragraph, the liability of Deltavorm shall exceed the amount of what its liability insurance pays under the circumstances.

5. All claims and defenses against Deltavorm lapse after one year.

6. The client indemnifies Deltavorm of all claims of third parties.

#### **Article 11 Retention of title**

1. All products supplied by Deltavorm remain its property until the client properly fulfills all its obligations under the contract.

2. The client is prohibited to pledge or otherwise encumber delivered products which alienate the retention of title.

3. The client is obliged to keep the products to which the ownership is reserved in accordance with reasonable diligence and as recognizable property of Deltavorm.

4. The client is obliged, in respect of the products subject to retention of title, to notify Deltavorm immediately if:

- the client is in a state of bankruptcy;
- client claims suspension of payments;
- there is any seizure of these products, in which case the client notifies the curator or bailiff that the products are owned by Deltavorm.

5. If the client fails to fulfill its payment, Deltavorm can reclaim products on which retention of title rests and can terminate the agreement without any prior warning and/or notice. The client provides Deltavorm permission in advance and will thereby provide every opportunity, if necessary, to get the products back. Recall of the products shall be borne by the client.

#### **Article 12 Final provisions**

1. Any agreement is subject to Dutch law exclusively.
2. Parties will only appeal to the courts after they have done everything possible to settle the dispute between themselves.
3. Only the competent court within the district of the location of Deltavorm has jurisdiction to take notice of disputes.
4. The Dutch version of these general conditions is always decisive for the interpretation thereof.