General Conditions Info Support B.V. & Info Support MITS B.V.

Version 1.0

January 1, 2024

infoSupport
Solid Innovator

Content

SUMMARY

These are the general terms and conditions of Info Support B.V. and Info Support MITS B.V. (the general terms and conditions), each having its registered office in Veenendaal, the Netherlands, registered at the Chamber of Commerce under numbers 30135370 and 30202672. Info Support is a service provider offering high-quality and specialist IT solutions. Info Support provides consultancy services, management services and training. The consultancy services consist of building custom software for clients and carrying out consultancy assignments. The management services consist of managing custom software, hosting and cloud services. Info Support favours clarity. This includes meticulous and understandable general terms and conditions. The key provisions of the general terms and conditions are summarised below, followed by the articles of the general terms and conditions.

Summary of key provisions:

a) These general terms and conditions govern the services provided by Info Support.

b) Info Support is committed to the arrangements agreed on with the client. In order to meet these agreements and deliver high quality, Info Support invests heavily in the training, development and coaching of its employees. The client may not contact those employees with the aim of employing them or having them work directly or indirectly for the client.

c) Info Support's liability is reasonably limited to the contract value. Both parties are responsible for taking out adequate insurance.

d) Info Support uses the Info Support Solid Innovator Toolkit in providing services to the client. An overview of all the components that form part of the Toolkit can be found on https://infosupport.com/solid-innovator-toolkit. Info Support remains the owner of the intellectual property in the Toolkit; the client is granted a right of use. All intellectual property rights that are not covered by the Toolkit and that rest on performances developed specifically for the benefit of the client will be vested in the client.

e) Info Support provides its services under its own direction and supervision.

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1. **Applicability of these General Terms and Conditions**

1.1   The provisions contained in these general terms and conditions apply at Info Support B.V. and Info Support MITS B.V. (Info Support). These general terms and conditions govern all quotations and agreements whereby Info Support provides services or products to the client. This also applies if the future order is carried out by another company (named above) than that originally contracted. No other general or other terms and conditions of purchase or sale of the client apply, also not if they are declared applicable to other documents (such as invoices or order confirmations).

2. **Formation of an agreement**

2.1   All Info Support offers and quotations are subject to contract, unless Info Support states otherwise in writing. These offers and quotations are based on the data known to Info Support at the time of issue. The client is responsible for providing correct and complete data in a timely manner.

2.2   If the parties agree on a price, that price is always based on the information provided by the client. If that information is found to be incorrect or incomplete, any additional costs will be payable by the client.

2.3   The agreement is formed the moment it is signed by the parties. If Info Support commences the performance of the assignment earlier at the client's request, these general terms and conditions apply.

2.4   The parties recognise that proper and timely cooperation between them is a prerequisite for the performance of the agreement.

2.5   Where possible, Info Support will be flexible with regard to interim changes or wishes of the client. The consequences of such interim changes or wishes of the client (such as overrun of the schedule) are at the client's expense and risk. This also applies to any necessary additional work. Info Support will charge such work on the basis of the agreed rates.

3. **Obligations of Info Support**

3.1   Info Support performs its work on the basis of a best-efforts obligation, unless otherwise agreed.

3.2   Info Support may engage agents during the performance of the assignment under its responsibility.

3.3   Info Support is not required to perform any work other than that arising from the agreement.

3.4   Info Support will make every effort during the work to arrange for continuity of the services provided to the client.

3.5   Info Support provides its services under its own direction and supervision, also if all or part of the work is performed at the client's location.

4. **Obligations of the client**

4.1   The client must provide Info Support in a timely manner with all the information, materials and other tools and operating assets that Info Support needs to perform the agreement. The client warrants that Info Support may use these materials (and any software already supplied) in the performance of the agreement.

4.2   The client will arrange for workplaces that comply with the applicable health and safety standards if all or part of the work is performed on the client's premises.

4.3   The client is responsible for making backups. Unless otherwise agreed, Info Support does not make backups.

4.4   The client must ensure that Info Support also has and retains access to the decision-making regarding the performance of the agreement. This means that Info Support must be able to access important decision-making, reports, etc. from the client environment and secure them in Info Support's systems. The client must ensure that no security or other issues stand in the way of this. If the client cannot fulfil these obligations, that is at its own risk. The client acknowledges that Info Support cannot defend itself against any dispute or claim in that event.

4.5   The client must adequately secure its systems and infrastructure and keep them secured during the provision of services.

4.6   The client is aware of the risks associated with ICT services and their purchase. The client must take out adequate insurance to cover any risks at its own discretion.

4.7   If the client fails to comply with its obligations, that will be at its own expense and risk.

5.   Provision of services

5.1   Insofar as necessary, the parties will consult in advance on the working method that applies between them or on the manner in which the services are provided.

5.2   Info Support provides its services on the basis of an iterative development method (e.g. Agile or Scrum). The client is aware that the work therefore will not be performed on the basis of specifications fully worked out in advance. The parties may adjust these specifications in close consultation during the performance of the agreement, taking into account the project management approach associated with the development method.

5.3   The parties will arrange for the sound project organisation required for the provision of the services. If the client cannot cooperate in doing so, that will be at its own expense and risk.

5.4   Technical and other tools for security, performance, advisory and testing purposes may be used in the provision of services.

5.5   If the parties have not agreed an acceptance test, the client will accept the software delivered in the condition it is in at the time of delivery ('as is, where is'). This acceptance includes all visible and invisible defects, except for Info Support's obligations described elsewhere (in these general terms and conditions or in the agreement).

5.6   The client cannot base any other expectations on the end result other than that the software meets the (agreed) specifications.

6.   Security

6.1   In providing its services, Info Support complies with a general (IT-related) market-compliant security level, taking into account the state of the art. Info Support does not warrant that the data security and other security are effective under all circumstances.

6.2   The client must inform Info Support in a timely manner of any industry-specific security and other requirements.

6.3   Info Support may (proactively) give instructions to the client regarding security measures aimed at preventing or minimising security breaches or the consequences of such breaches. The client is responsible for following this up (in a timely manner). Info Support is not liable for any damage caused by failure to follow these instructions in a timely manner.

6.4   The parties will agree on the need (if any) for a data processing agreement as soon as personal data are processed, in accordance with the General Data Protection Regulation (GDPR).

7.   Applicable delivery periods

7.1   The time periods agreed between the parties are indicative and are not hard deadlines.

7.2   If a deadline is exceeded, the client must first offer Info Support the opportunity in writing to comply after all; the same applies to any agreed hard deadline.

8.   Info Support rates

8.1   All Info Support rates are exclusive of turnover tax (VAT) and any other government levies.

8.2   Info Support may increase its rates each year by the index figure for negotiated hourly wages, including special remuneration, business services (M-N), as adopted by Statistics Netherlands (CBS). This index figure is adopted in October of each year. That is done on the basis of the first published figure of the month of September in the current year and the development compared to a year earlier in the month of September. Info Support will communicate increased rate changes in a timely manner.

8.3   Moreover, if (other) rate-determining circumstances change, such as regulations or the rates of suppliers of, for instance, software, hosting or energy, Info Support may change its rates accordingly. Info Support will notify the client of such changes at least three (3) months in advance.

8.4   Travel and accommodation expenses outside normal commuting, third-party costs and other expenses are not included in the rates. The client's prior approval will be requested for these costs. Work outside normal office hours is also subject to the client's prior approval. Outside normal office hours, a surcharge applies in addition to the hourly rate.

This surcharge is calculated as follows:

8.4.1   25% for work on Mondays to Fridays between 6 pm and 12 midnight;

8.4.2   50% for work on Tuesdays to Thursdays between 12 midnight and 7 am and on Saturdays; and

8.4.3   100% for work on Sundays and public holidays until 7 am on the following day that is not a Sunday or public holiday.

9.   Agreements on payment

9.1   The client must pay invoices within thirty (30) days of the invoice date. Info Support's invoices and records are binding in respect of the work and amounts charged, unless the client provides evidence to the contrary.

9.2   In the event of late payment by the client, Info Support will send the client a one-off payment reminder within thirty (30) days. At the end of that period, the client will immediately be in default and Info Support will charge the statutory commercial interest (Article 6:119a of the Dutch Civil Code) from that moment.

9.3   If Info Support is forced to take collection measures, all the costs involved will be payable by the client.

9.4   The client must notify Info Support in writing as soon as possible of any complaints regarding invoices or work charged. Thirty (30) days after the invoice date, the right to rectification or compensation lapses and the invoice is deemed to be uncontested.

9.5   The client does not have the right to suspend or set off payments.

10.   Agreements on personnel

10.1   Info Support determines which personnel will be deployed, under its direction and supervision, in consultation with the client. In these general terms and conditions, 'personnel' means any natural person who performs work on behalf of Info Support for the client. Info Support has the right to replace personnel.

10.2   Info Support is committed to the agreements made with the client. In order to meet these agreements and to deliver high quality, Info Support invests heavily in the training, development and coaching of its personnel. The client recognises this importance and will not (i) contact this personnel, enter into negotiations with them, or otherwise recruit or stimulate personnel with the aim of employing them; nor (ii) actually employ them or otherwise, directly or indirectly, have them perform work for the client or its affiliates. This agreement applies for the duration of the services – or in any event for the duration of the deployment of the personnel in question – and for a period of three (3) years after that period.

10.3   If the client fails to comply with the obligation in the preceding paragraph, it forfeits to Info Support a penalty of €250,000 (two hundred and fifty thousand euros), without any notice of default being required.

11.   Intellectual Property

11.1   Info Support makes use of the Info Support Solid Innovator Toolkit (referred to as: 'Toolkit') in providing its services to the client. An overview of the components belonging to the Toolkit can be found on https://infosupport.com/solid-innovator-toolkit, which in any event includes the Info Support Guidance Framework, best-practices, reference architectures, accelerators and technical components. This overview is updated periodically.

11.2   Info Support retains all its intellectual property rights to the Toolkit. The client acquires a right of use to the used parts of the Toolkit insofar as that follows from the services provided. This right of use is non-exclusive, non-transferable and limited to necessary use within the client's organisation. All changes, improvements and other adaptations made to the Toolkit during the provision of the services automatically become part of it.

11.3   All intellectual property rights that are not covered by the Toolkit and that rest on performances developed specifically for the client's benefit will accrue to the client after payment of the final invoice. If Info Support transfers an intellectual property right to the client, Info Support retains the right to reuse the ideas, components, designs, algorithms, documentation, works, protocols, standards, etc. underlying that performance. Unless exclusivity agreements have been made, Info Support may make developments for itself or third parties that are similar to those developed for the client.

11.4   Third-party software (both open source and closed source) may be used in software development. On request, Info Support will specify which third-party software has been used. The use of third-party software is subject to the relevant terms and conditions of those third parties (which prevail over these general terms and conditions). On request, Info Support will provide a copy of those third-party conditions. The client accepts those conditions in advance.

Specifically with regard to open source, any improvements, changes and other adjustments made to the code of the relevant open source usually become part of the open source.

12. **Confidentiality**

12.1   The parties will treat information/data provided to each other confidentially. They may use it only for the provision of the services or to improve their own services. This confidentiality applies to all information – barring legal exceptions – of which it is apparent from the context that it must be considered confidential. The parties consider information/data to be confidential if one of the parties so declares; the parties will consult in the event of doubt.

12.2   On termination of the services, the agreed duty of confidentiality will continue to apply for at least 5 (five) years.

13. **Term and termination of the agreement**

13.1   The continuing performance agreement between Info Support and the client – that is governed by these general terms and conditions – is open-ended, subject to a notice period of 6 (six) months. The parties may terminate the agreement only in writing. During this period, if so desired, the parties will enter into consultation regarding the settlement and (possible) transfer of the work performed by Info Support.

13.2   If a party continues to breach the agreements made, the other party may dissolve (ontbinden) the agreement. This right arises only after the first party has been given the opportunity – through a written reminder – to comply after all within a reasonable period of time.

13.3   A party may terminate the agreement with immediate effect (without notice of default being required) if it would be unreasonable to continue the services. This applies if the other party is declared bankruptcy or is granted a suspension of payment, ceases to exist or is unable to have a substantial attachment lifted within 30 (thirty) days, or in the event of substantial changes in the structure of the company.

13.4   A payment obligation continues to apply to any work performed by Info Support before the dissolution (ontbinding) (no obligation to undo applies).

14. **Force majeure**

14.1   The parties are not obligated to perform an obligation in the event of force majeure. Reliance on force majeure must be substantiated in writing. During the force majeure situation, the obligations affecting the force majeure situation will be suspended, without the parties being liable for damages for that part. The parties will consult during this period to minimise any adverse effects on the services. If the force majeure situation lasts longer than three months, the other party may dissolve (ontbinden) the agreement, without the parties being under any obligation to undo or being liable for damages.

14.2   Force majeure in any event includes, without limitation, natural disasters that significantly affect the parties' digital networks, electricity failures, failure of internet, data network or telecommunication facilities, cybercrime, cyber vandalism and war or terrorism, and force majeure on the part of suppliers on the aforementioned grounds.

15. **Liability and insurance**

15.1   Info Support is committed to providing good service. The parties will consult with each other if their cooperation is unsatisfactory or if they are dissatisfied with the services. Once it has been established that the parties cannot find a suitable solution, the client may, if desired, give notice of default.

15.2   Unless performance is permanently impossible, liability of Info Support, if any, will arise only after the client gives notice of default. The client must in any event send the notice of default by registered post to Info Support (Kruisboog 42, 3905 TG Veenendaal, the Netherlands), for the attention of the management. The client must provide a description of the breach in the notice of default and Info Support must be given the opportunity to remedy it within a reasonable period. The client must report any defect within six months, after which the right to remedy and Info Support's liability (if any) lapse.

15.3   If it is not possible to remedy the defect, the client may (in extreme cases) hold Info Support liable. Only Info Support as a legal entity may be liable to the client. The applicability of Articles 7:404 and 7:407(2) of the Dutch Civil Code is excluded. Any claim for damages against employees, agents or other third parties engaged by Info Support in the performance of the agreement is excluded. The natural persons and legal entities referred to in the preceding sentence may at any time rely on this irrevocable third-party clause agreed for their benefit.

15.4   Info Support's liability, on any legal or other ground, is limited to reimbursement of (i) direct damage for (ii) no more than the agreed fee (excluding VAT) for the agreement in question (the Contract Value). In the case of a continuing performance agreement with a duration of more than 1 (one) year, the agreed fee referred to in the preceding sentence will be calculated as the amount (excluding VAT) charged by Info Support and paid by the Client in the 12 (twelve) months preceding the harmful event.

15.5 In addition to the preceding paragraph, Info Support's maximum liability is in any event limited to €500,000 (five hundred thousand euros). Info Support has taken out adequate liability insurance for this purpose. If an event gives rise to damage for several parties, Info Support's liability will be divided among the affected parties pro rata to the Contract Value, subject to the (other) agreements made in these general terms and conditions. Info Support will in no event pay out more than the amount covered by the insurance. If several limitations apply to Info Support's liability, the limitation leading to the lowest liability sum always applies.

15.6 Only direct damage is eligible for reimbursement. Damage that is not directly related to the breach is excluded. Types of damage that are in any event excluded are consequential damage, lost turnover, business interruption, claims of customers of the client, damage and costs resulting from administrative and other fines imposed on the client (e.g. by the Dutch Data Protection Authority), the consequences of mutilation or loss of data, third-party product liability claims, and damage not caused by Info Support.

15.7 Exclusions and limitations of liability do not apply if and insofar as it is demonstrated that damage is due to intent or deliberate recklessness on the part of Info Support or its management.

16. Miscellaneous provisions

16.1 Without the parties' written consent, neither the agreement as such, nor any rights or obligations arising from it, may be assigned.

16.2 If any provision of these general terms and conditions is void, voided or invalid, the parties will consult to replace that provision. The remaining articles will then remain in force.

16.3 The parties may refer to each other as proud partners in commercial and other communications.

16.4 On termination of the agreement, the provisions that by their nature are intended to continue to apply will continue to apply.

17. Applicable law and choice of forum

17.1 The agreement and these general terms and conditions are governed by Dutch law.

17.2 All disputes related to or arising from an agreement will be settled by the competent court in the district of Midden-Nederland, Utrecht location.

Appendix 1. Course or training

Introduction

Sharing high-quality knowledge is the mission of the Info Support Knowledge Centre (provided by Info Support B.V.). This is done by providing courses or training. 'Course or training' includes open-grid training, in-company/customised training, inspiration sessions, assessments and knowledge interviews.

1. Applicability

1.1 This appendix applies to the services provided by the Info Support Knowledge Centre in addition to the general terms and conditions.

2. Formation of an agreement

2.1 Participants may be registered for a course or training via the Info Support website or by e-mail. The client is bound after confirmation by Info Support. If an offer is made, the client is bound after approval by Info Support.

3. Implementation of a course or training

3.1 Info Support determines the content and scope of the course or training, unless customisation is agreed.

3.2 The client must ensure that participants comply with the training dates and times.

3.3 Info Support uses its own software and hardware when providing a course or training. If Info Support performs the work at the client's location, the client must provide working software and hardware.

3.4 With Info Support's permission, the client may substitute registered participants for other participants before the start of the course or training. No (additional) costs are due in that case.

4. Prices and payment

4.1 Info Support may require payment before the start of the course or training.

5. Cancellation by Info Support

5.1 Up to seven working days before the start, Info Support may cancel the course or training, combine it with other courses or training, or move the course or training to another date, time and/or location. The client will receive a credit invoice in the event of cancellation.

5.2 Info Support may refuse a participant if the client has not fulfilled its payment obligations towards Info Support or if the participant does not have the required prior knowledge.

6. Intellectual property

6.1 Info Support retains all its intellectual property rights in the training materials.

7. Cancellation or rescheduling of open-schedule course or training by the client

7.1 In the event of cancellation by the client less than ten working days before the start, the full training costs are due. These costs include preparation and implementation costs.

7.2 The client may move the course date up to ten working days before the start of the course or training, in which case 25% relocation costs are payable by the client, which will be charged immediately.

8. Cancellation or rescheduling of in-company/open-grid customised course or training by the client

8.1 In the event of cancellation by the client less than ten working days before the start, the full training costs are due. In the event of cancellation less than twenty but more than ten working days before the start, 50% of the training costs are payable by the client. These costs include preparation and execution costs.

8.2 The client may move the course date up to ten working days before the start of the course or training, in which case 25% relocation costs are payable by the client, which will be charged immediately.