

# Terms and Conditions – Clempire

These are the terms and conditions of Clempire B.V. ( **Clempire** ). Clempire is located at Topaasring 123 5629GE Eindhoven, registered with the Chamber of Commerce ( *Kamer van Koophandel* ) under number: 83162410.

If you have any questions, you can contact us .

Clempire reserves the right to change these terms and conditions. You agree that the most recent version of these terms and conditions apply. Parties may deviate from these Terms and Conditions in writing.

## Article 1 - Services

We offer the following services: expert project management, strategic consultancy, and bespoke software development. We excel in harnessing cutting-edge technologies such as artificial intelligence, machine learning, blockchain, and robotics to deliver tailored solutions that align with our clients' unique needs. Our team specializes in creating seamless integrations and developing innovative software, ensuring that businesses are equipped with tools and strategies to optimize operations and foster growth. With a commitment to excellence and innovation, Clempire stands as a pivotal ally for businesses seeking to navigate and thrive in the ever-evolving technological landscape.

## Article 2 - Applicability of these General Terms and Conditions

These terms and conditions apply to every offer, proposal and assignment between Clempire and you ( **Client** ). On request, Clempire shall send these terms and conditions to you, free of charge. They are also available on [www.clempire.org](http://www.clempire.org).

## Article 3 - Establishment of the Assignment

The assignment shall be deemed established when Contractor receives a confirmation in writing from Client.

## Article 4 - Proposals and Offers

1. All offers and proposals from Clempire are non-binding, unless agreed otherwise in writing. An offer or proposal only applies to the assignment specified therein (and not to possible future assignments).
2. If the Client provides Clempire with certain information, Clempire may assume that the provided information is correct and will base the proposal on that information.

## Article 5 - Pricing

1. Clempire can raise the price in the interim in the case of unforeseen and cost price increasing circumstances, if these circumstances occur after the establishment of the assignment.
2. In case Clempire has raised prices due to the circumstances referred to in the previous section, the Client has the right to annul the assignment. The Client will be charged for costs incurred for working hours or the execution of parts of the assignment. The Client in such case has no right to compensation or damages.
3. An offered price does not include expenses for Clempire and does not include taxes or levies by the authorities.

## Article 6 - Payment and Collection Charges

1. Client must pay within thirty days after the invoice date.
2. If the payment by Client is due, he will automatically be in default ( *verzuim* ), without a notice of default ( *ingebrekestelling* ) being required. In case of default, Client owes Clempire an interest of 5%, unless the statutory interest (in case he is a consumer) or alternatively the statutory commercial interest, is higher. In that case Client owes that interest. The interest on the payable amount is calculated from the moment that the payment is due, until the moment that the payable amount has been paid by Client in full.
3. If Client does not pay in time, he shall immediately be in default. He will then be due to Clempire all extrajudicial costs. In case of an invoice amount to € 267, these costs will be € 40. In case of a higher invoice amount, the maximum collection fees are as follows:
  - a. 15% on the first € 2,500;
  - b. 10% on the part that remains thereafter, up to € 5,000;
  - c. 5% on the part that remains thereafter, up to € 10,000;
  - d. 1% on the part that remains thereafter, to € 200,000;
  - e. 0.5% on the remaining part, whereby the total collection fees are maximised to € 6,775.
4. Any outstanding amounts by the Client are immediately payable in the following cases:
  - a. Client fails to pay within the payment term;
  - b. Client is bankrupt or applied for a suspension of payment or any other insolvency procedure;
  - c. Client (company) is dissolved or liquidated;
  - d. Client (private individual) is placed under guardianship or deceased.

## Article 7 - Duration

1. Client and Clempire enter into the contract for an indefinite period of time, unless Parties agree otherwise.
2. For an assignment of an indefinite term, the following notice periods apply:
  - Clempire can terminate the agreement per every first day of the month. The notice period is 1. Clempire terminates the agreement by means of a signed letter.
  - The Client can terminate the agreement per every first day of the month. For the Client a notice period is 2. The Client terminates the agreement by means of a signed letter. In this letter he must specify the reason for cancelling the agreement.
  - Parties can terminate an agreement at any given time by mutual consent.

## Article 8 - Third Parties

Clempire may involve third parties to (partially) perform the activities. The following articles of the Dutch Civil Act ( *Burgerlijk Wetboek* ) do not apply:

- 7:404 (execution by a certain person);
- 7:407 sub 2 (joint and several liability);
- 7:409 (death of a certain person).

## Article 9 - Execution of the Assignment

1. Clempire shall execute the assignment at the best of its knowledge and abilities and according to the requirements of professional practice.
2. Clempire may execute the assignments in different phases and send separate invoices on the different phases.
3. If Clempire performs the assignment in different phases, Clempire may suspend any activities on the next phase until Client approved the execution of the last phase in writing.
4. Client shall timely provide Clempire with all information or material, required for the execution of the assignment.

5. If Client does not provide the material or information in time, Clempire may suspend the execution of the assignment and charge the additional costs, resulting from the delay. Clempire is not liable for any damages, resulting from incorrect or incomplete information, provided by Client.

## **Article 10 - Changes of the Assignment**

1. If it proves to be necessary to change the assignment during the activities in order to guarantee a decent execution of the assignment, parties shall negotiate the required changes and agree on them in writing.
2. If parties agree on altering the assignment, Clempire may raise or lower the price. If possible, Clempire shall provide a quotation to Client in advance. The execution time may change with a change of the assignment. Client agrees on the possibility to change the assignment, the pricing and the execution time.
3. Clempire may refuse a request, made by Client, to change the assignment if such changes could affect the quality or quantity of the activities.

## **Article 11 - Suspension, Dissolution**

1. Clempire may temporarily suspend the execution of the activities if he cannot comply because of *force majeure*.
2. If the execution of the assignment is permanently impossible parties may cancel the assignment for the part that has not been fulfilled.
3. Clempire may suspend or cancel the assignment if Client fails to meet its obligations, partially, completely or in time. In such cases, Client shall compensate Clempire for damages.

## **Article 12 - Termination in the Interim**

1. If Clempire cancels the assignment in the interim, Clempire shall ensure a handover of the work yet to be performed to a third party, unless the termination is imputable to Client. If the handover of the activities leads to additional costs for Clempire, these costs shall be borne by Client.
2. Clempire may immediately cancel the assignment (and is not liable for any damages doing so) in one of the following events:
  - a. Client fails to pay within the payment term;
  - b. Client is declared bankrupt or applied for suspension of payments, or applied or becomes subject to any other insolvency procedure;
  - c. Client (the company) is dissolved or liquidated;
  - d. The occurrence of circumstances in which Client can no longer freely dispose of his capital.

## **Article 13 - Force Majeure**

1. Clempire is not obliged to comply in the event of *force majeure*.
2. Clempire may suspend the obligations, coming from the assignment, for as long as the force majeure continues.
3. If Clempire complied with a part of its obligations, and that part has an independent value, Clempire may charge that part to Client.

## **Article 14 - Retention of title**

1. Everything supplied by Clempire shall remain the property of Clempire until Client has fully fulfilled all its obligations.
2. Client must do everything he can reasonably do to secure the properties of Clempire.
3. If Clempire wishes to exercise its property rights, Client gives unconditional and irrevocable consent to Clempire to enter all places where the properties are located, so that Clempire can take them back.

## **Article 15 - Guarantees**

1. Clempire warrants that all deliveries shall be in compliance with the usual requirements and standards that may be stipulated in this respect at the time of delivery.
2. This does not apply if a defect occurs to the goods delivered, as a result of Client's fault.
3. This guarantee also does not apply if the defect is being caused by circumstances beyond Clempire's control.

## **Article 16 - Complaints**

1. Client shall notify Clempire in writing of any complaints within one month days after detection (or –on invisible shortcomings– after he could have detected it).
2. A timely notified complaint does not suspend or cancel any payment obligation resting on Client.
3. If Client does not notify Clempire timely, Client is not entitled to any recovery, replacement or compensation.
4. If it is established that the complaint is justified and the notification by Client thereof was timely delivered, Clempire shall recover, replace or compensate it's work within a reasonable term after notification of the shortcoming, in writing from the Client.
5. If it is established that a complaint is not justified, Client shall compensate Clempire for made expenses (like research costs).

## **Article 17 - Liability**

1. Clempire is only liable for direct damages suffered by Client as a direct consequence of a shortcoming by Clempire.
2. Clempire is not liable for any damages resulting from Clempire due to incorrect or incomplete information provided by Client.
3. The liability of Clempire shall never exceed the amount paid by its insurer.
4. If Clempire's professional liability insurer does not cover the damages, Clempire's liability is limited to the amount paid by Client. Under no circumstances can this liability exceed the amount of €500,00.

## **Article 18 - Limitation Period**

The limitation period on all claims and defences against Clempire is one year.

## **Article 19 - Indemnification**

1. Client indemnifies Clempire from any claims by third parties, who suffer damages, resulting from the execution of the assignment but cannot be attributed to Clempire.
2. If third parties address Clempire to be liable for damages resulting from the execution of the assignment, Client shall support Clempire both judicial and extrajudicial and Client shall do what may be expected from him.
3. If Client does not provide the support described in paragraph 2, Clempire may take the actions it deems required. All expenses and damages made by Clempire in this respect shall be borne by Client.

## **Article 20 - Intellectual Property**

1. All the plans, documents, pictures, drawings, programming, creations and related information, made by Clempire, remain property of Clempire. This also applies if related expenses are charged or when these are improved, later on.
2. Client can only copy the aforementioned properties if it is for internal use within Client's company and cannot show the properties to third parties or put the properties at disposal in a different manner than originally intended by Clempire.
3. Client and Clempire shall agree on more detailed arrangements, in separate agreements, on certain licenses, given to Client by Clempire. If parties do not agree on further terms concerning the licenses, Clempire grant Client a non-transferrable license to use the works, made by Clempire (like: software, designs, illustrations or any other creation), for an indefinite period of time.

## **Article 21 - Non-Disclosure**

1. Clempire shall not disclose any of Client's information to third parties, unless Clempire is required by a statutory or professional obligation to disclose the information.
2. Clempire shall not use any information, obtained from Client, in a different manner than originally intended, except that the information may be used in a legal procedure that involves Clempire and the information can be of importance.
3. Client shall not disclose the contents of agreements, confirmations, offers, reports, advices or other expressions from Clempire, whether they are in writing or not.

## **Article 22 - Nullity**

If any part of these conditions is void or voidable, this does not alter the validity of the remainder of these conditions. The invalid or unenforceable part shall be replaced by a provision that most closely follows the content of the invalid provision.

## **Article 23 - Conflicting Provisions**

If any of the provisions from these terms and conditions are in conflict with a provision from an agreement, the provisions of these terms and conditions shall prevail.

## **Article 24 - Applicable Law**

Dutch law.

## **Article 25 - Competent Court**

The Court of Oost-Brabant.