

## **General terms and conditions of sale and delivery of NewChannel B.V. - Consultancy and Services**

### **Article1. Definitions**

- 1.1. Unless explicitly stated otherwise, or evinced otherwise by the context, the terms below in these general terms and conditions of sale and delivery are defined as follows:
  - a. NewChannel: the user of these general terms and conditions of sale and delivery: NewChannel B.V. has its registered office at Koraalrood 153 in Zoetermeer, and is registered with the Chamber of Commerce under Chamber of Commerce number 58857281;
  - b. product: the item supplied by NewChannel;
  - c. software: the software or online service provided by NewChannel;
  - d. The Client: the legal entity or the natural person acting from the exercise of his profession or business, entering into an agreement with NewChannel, or who has received an offer/quotation from NewChannel, or with whom NewChannel has any legal relationship or for whom NewChannel performs any legal transaction;
  - e. agreement: the agreement between NewChannel and the Client.

### **Article2. General**

- 2.1. These general terms and conditions of sale and delivery apply to all legal relationships between NewChannel and the Client, including all activities performed by NewChannel, and in particular to the services that are stated in the offer.
- 2.2. Any deviations from these general terms and conditions of sale and delivery are only valid if expressly established in writing or by email.
- 2.3. NewChannel expressly rejects the applicability of general (purchase) conditions that are applied by the Client.
- 2.4. If one or more of the provisions of these general terms and conditions of sale and delivery are null and void or should be annulled, the remaining provisions of these general terms and conditions of sale and delivery will remain fully effective. The invalid or annulled provisions will be replaced by NewChannel, whereby the purpose and tenor of the original provision(s) will be observed as much as possible.
- 2.5. NewChannel has the right to unilaterally change the general terms and conditions of sale and delivery during the agreement.
- 2.6. In case NewChannel does not constantly require strict compliance with these general terms and conditions of sale and delivery, this does not entail that these general terms and conditions of sale and delivery would not be applicable or that NewChannel would lose the right in future cases, whether or not similar, to demand strict compliance with these general terms and conditions of sale and delivery.

### **Article 3. Offers and quotations**

- 3.1. All quotations and offers are non-committal.
- 3.2. Each quotation is based on implementation under normal circumstances and on information, data, documents, etc. provided by the Client.
- 3.3. Apparent errors or mistakes on the website and in leaflets, quotations, agreements or publications of NewChannel do not bind NewChannel.
- 3.4. The prices listed in the quotation are exclusive of VAT and other government levies, as well as of any costs to be incurred under the agreement, including shipping and administration costs, unless stated otherwise in the quotation.
- 3.5. Offers or quotations do not automatically apply to future orders.
- 3.6. If no agreement is reached on the basis of the quotation, the quotation and all associated documents must be returned to NewChannel immediately by the Client, at his expense and risk, upon NewChannel's first request.
- 3.7. The quotations/offers and other documents provided by NewChannel to the Client remain the property of NewChannel and may not be reproduced or given to third parties for perusal without NewChannel's consent.

### **Article4. Images**

- 4.1. All images of the offered products and/or software, included on the NewChannel website, in quotations or brochures are only valid by approximation and shall not be grounds for compensation and/or rescission.

**Article 5. Conclusion of the agreement**

- 5.1. The agreement is concluded after both parties have signed the agreement, after the Client has explicitly agreed to NewChannel's offer and/or quotation, or after the Client has placed an order with NewChannel.
- 5.2. If the Client places an order with NewChannel, NewChannel will send the Client a confirmation of receipt of the order.

**Article 6. Implementation of the Agreement**

- 6.1. NewChannel shall exercise all due care with regard to the interests of the Client in performing the work. The undertaking is a best-effort obligation, and not an obligation to achieve a specific result.
- 6.2. If and in to the extent required for the proper execution of the agreement, NewChannel has the right to have the work carried out by third parties.
- 6.3. For the implementation of the agreement, NewChannel may rely on services or networks of third parties. NewChannel will not be liable for damage of any kind, or on any grounds whatsoever, caused by services or networks of third parties.
- 6.4. If the Client submits a support request to NewChannel, NewChannel will try to process the support request as soon as possible, though NewChannel cannot be held responsible for the temporary unavailability of the software or for the temporary malfunctioning of the software and/or the product.

**Article 7. Obligations of the Client**

- 7.1. In the event that the work is carried out at the location of the Client or at a location designated by the Client, the Client will provide, free of charge, the facilities reasonably required by NewChannel or the third party deployed by NewChannel.
- 7.2. The Client will make sure that all data and equipment of which NewChannel indicates that they are necessary or of which the Client should reasonably understand that they are necessary for the execution of the agreement, are provided to NewChannel in due time.
- 7.3. If the information supplied by the Client is incomplete and/or incorrect, this will be entirely at the expense and risk of the Client.
- 7.4. The Client is solely responsible for the observance of all regulations that are legally or otherwise applicable in connection with the possession, storage, transport and use, in any manner, of the products delivered.
- 7.5. The Client is obliged to inform NewChannel without delay of facts and circumstances which may be relevant in connection with the implementation of the agreement.
- 7.6. The Client indemnifies NewChannel with regard to all claims of third parties for damage related to or resulting from the agreement.
- 7.7. The Client is obliged to ensure that the goods delivered by NewChannel are only used pursuant to the instructions or the technical specifications of the goods delivered.
- 7.8. If login codes are provided to the Client, the Client is responsible for these login codes. NewChannel cannot be held responsible if unauthorised third parties make use of the Client's log-in codes. In such case, the Client must notify NewChannel immediately.
- 7.9. If the Client fails to fulfil his obligations resulting from the agreement, these general terms and conditions of sale and delivery, or from the law, NewChannel has the right to charge the resulting costs to the Client and NewChannel has the right to suspend its activities.

**Article 8. Change of billing address or removal**

- 8.1. If the Client moves or changes the Client's invoice address, the Client must, in advance and as timely as possible, furnish his new home, place of residence or place of accommodation and/or new billing address to NewChannel in writing or by email.

**Article 9. Implementation or delivery and completion times**

- 9.1. In case a term has been agreed upon between NewChannel and the Client with regard to the execution of the work or the delivery of products and/or software, such term is only an approximation and cannot be considered a strict time limit. NewChannel does not provide any guarantee with regard to established delivery times and late delivery does not confer the right to Client of compensation for damages, rescission of the agreement, suspension of any obligation with regard to NewChannel, or of any other form of compensation.
- 9.2. In the event that a delivery period established with the Client is overrun as a result of an event which is effectively outside NewChannel's control and cannot be attributed to NewChannel, as described in article 20 of these general terms and conditions of sale and delivery, this period will automatically be extended by the period that it was overrun as a result of such event.

**Article 10. Delivery**

- 10.1. The products will be delivered to the address stated by the Client.
- 10.2. The Client is obliged to receive the products delivered. If purchased products are not accepted by the Client, they will be stored at the expense and risk of the Client.
- 10.3. The risk of loss, damage or depreciation of the product passes to the Client at the moment the product is brought under the control of the Client or of a third party designated by the Client.
- 10.4. NewChannel has the right to deliver the order in batches.
- 10.5. In case of any transport damage, the Client must immediately notify the transport company and NewChannel and report such on the delivery document.

**Article 11. Prices and rates**

- 11.1. NewChannel has the right to adjust its prices and rates from time to time.
- 11.2. For NewChannel, prices and rates are based on the Euro. If invoicing nevertheless takes place in a different currency and a change of exchange rate has occurred between the time of the conclusion of the agreement and that of delivery, NewChannel will have the right to adjust the original price.
- 11.3. NewChannel is not liable for customs duties, import duties or taxes that may be applicable in the country of the Client.

**Article 12. Fees**

- 12.1. Parties may establish a fixed fee upon conclusion of the agreement.
- 12.2. If no fixed fee has been established, the fee will be determined on the basis of hours actually worked. The fee will be calculated in accordance with NewChannel's usual hourly rates that are effective for the period in which the work was carried out.

**Article 13. Modification of the agreement and additional costs**

- 13.1. If parties agree to amend or supplement the agreement, this may affect the timing of its completion. NewChannel will inform the Client as soon as possible.
- 13.2. The Client will, where possible in advance, be notified of the financial consequences of changing the agreement.
- 13.3. NewChannel will have the right to increase an established fixed fee if during the implementation of the work it turns out that the amount of work originally established or expected was underestimated to such a degree upon conclusion of the agreement, and such cannot be attributed to NewChannel, that it may not reasonably be expected of NewChannel that it will carry out the established activities against the fee originally established.
- 13.4. Waiting times and delays caused by unforeseen circumstances or by the Client's failure to fulfil his obligations will, if these cause additional costs, be charged to the Client.

**Article 14. Invoicing and payment**

- 14.1. The first order placed by the Client will be invoiced in advance. In that case, implementation of the agreement will commence after NewChannel has received the payment from the Client.
- 14.2. The second order is invoiced subsequently, and the Client must pay the invoice received from NewChannel within 14 days after the invoice date.
- 14.3. For orders placed after the second order by the Client, invoicing will occur afterwards and Client must pay the invoices within 30 days of the invoice date, unless the invoice amount exceeds € 10,000. In such case, a payment term of 14 days applies.
- 14.4. Objections to the amount of the invoices do not suspend the payment obligation.
- 14.5. If the Client fails to pay within the term of payment stated on the invoice, the Client will fall into default legally and the Client will owe NewChannel the statutory commercial interest, in accordance with Volume 6, Section 119a of the Netherlands Civil Code (BW). The interest on the amount due and payable shall be calculated from the moment the Client is in default until the moment of full settlement. If the Client fails to pay the invoice within 3 business days after falling into default, NewChannel has the right to assign the claim to a bailiff's firm or collection agency. All costs of collection, both judicial and extrajudicial, will be borne by Client. The extrajudicial collection costs are set at 15% of the principal amount with a minimum of € 100.
- 14.6. The Client does not have the right to setoff payments.
- 14.7. In case of liquidation, bankruptcy, attachment or suspension of payment of the Client, NewChannel's claims against the Client are immediately due and payable.
- 14.8. Each payment made by the Client will first serve to pay the interest(s) due and subsequently to settle the collection costs. Only after these amounts have been settled, any payment by the Client will serve as settlement of the outstanding principal sum.
- 14.9. NewChannel may retain the goods, property rights, data, documents, data files received or generated under the agreement, despite an obligation existing for their issue, until the Client has settled all amounts due to NewChannel.
- 14.10. Rights are at all times granted to the Client on condition that the Client pays the fees established for such timely and in full.

**Article 15. Retention of title**

- 15.1. All products delivered and still to be delivered remain the exclusive property of NewChannel, until all claims which NewChannel has or will acquire on the Client, including in any case the claims referred to in Volume 3, Section 92 section 2 of the Netherlands Civil Code (BW), have been paid in full.
- 15.2. As long as the title to the products has not been transferred to the Client, the Client may not:
  - a. pawn the products;
  - b. grant third parties any other right thereto;
  - c. resell the products outside his normal business operations.
- 15.3. If third parties seize products delivered under retention of title or wish to establish or assert rights to them, the Client is obliged to inform NewChannel immediately.
- 15.4. In the event of seizure, suspension of payment or bankruptcy, the Client must immediately inform NewChannel accordingly and inform the bailiff levying the attachment, the administrator or the receiver of the (property) rights of NewChannel's.
- 15.5. The Client is obliged to keep the products delivered under the retention of title with due care, and as the recognisable property of NewChannel. The Client must at all times do everything that can reasonably be expected of him to safeguard the property rights of NewChannel.
- 15.6. The Client commits himself to insure the products delivered subject to retention of title, and to keep them insured against fire, explosion and water damage as well as against theft, and to provide the policy of this insurance for perusal upon first request.
- 15.7. In the event that NewChannel wishes to exercise its property rights as stipulated in this article, the Client hereby grants unconditional and irrevocable permission to NewChannel to enter (or let NewChannel allow entrance) all those places where the

- property of NewChannel is located and to recover those products back (or have them recovered).
- 15.8. The provisions referred to in this article are without prejudice to other rights accruing to NewChannel.

**Article 16. Complaints**

- 16.1. Complaints about the activities must be reported in writing by the Client to NewChannel within eight (8) days after discovery, and not later than within fourteen (14) days after completion of the relevant activities. Such notice of default must contain a description with as much detail as possible of the shortcoming alleged by the Client, so to enable NewChannel to provide an adequate response.
- 16.2. If a complaint is valid, NewChannel will be given the opportunity to carry out the work again. In the event that, according to objective standards, it is no longer possible to carry out the work again, NewChannel shall only be liable within the limits of article 19.

**Article 17. Warranty**

- 17.1. The Client will be notified in case a manufacturer's warranty is provided for the delivered products before or when the agreement is concluded.
- 17.2. The warranty term commences at the time of delivery of the product.
- 17.3. The warranty and repair procedure is carried out via the manufacturer of the product.
- 17.4. The terms and conditions of the warranty and the manner in which the Client may invoke the warranty are stipulated in the documentation supplied with the product.
- 17.5. The invoice is the proof of warranty, unless the manufacturer has attached a warranty certificate to the product documentation.

**Article 18. Termination**

- 18.1. Both parties may terminate the agreement in writing at any time.
- 18.2. If the agreement is terminated prematurely by the Client, NewChannel is entitled to compensation for the loss caused thereby. In addition, the Client will then be obliged to pay the invoices for the work carried out up to such time.
- 18.3. If the agreement is terminated prematurely by NewChannel, NewChannel loses its claim to payment, unless the activities already carried out are of use to the Client.

**Article 19. Liability and limitation period**

- 19.1. In view of the nature of the work and the subjective assessment aspects involved in the work, NewChannel is not liable for any damage suffered by the Client as a result of an act or omission of NewChannel in the fulfilment of the agreement or otherwise, except in the case of the wilful intent or deliberate recklessness on the part of NewChannel.
- 19.2. NewChannel cannot be held liable for any damage resulting directly or indirectly from:
- a. an event, which is effectively beyond its control and therefore cannot be attributed to its actions and/or omissions, as described, among other things, in article 20 of these general terms and conditions of sale and delivery;
  - b. any act or omission on the part of the Client, its subordinates, or other persons employed by or on behalf of the Client.
- 19.3. The Client is responsible under all circumstances for the accuracy and completeness of the data and documents supplied by him. NewChannel can never be held liable for any damage which is (partly) caused by the inaccuracy and/or incompleteness of the data, calculations, documents, elaborated designs and advice supplied by the Client or by the compliance with instructions given by the Client. The Client indemnifies NewChannel against all claims concerning.
- 19.4. NewChannel cannot be held accountable by the Client if the result from the work carried out by NewChannel does not meet the Client's expectations.
- 19.5. NewChannel is not the software developer of the software, therefore NewChannel cannot be held responsible for the performance of the software and NewChannel is not liable for damage suffered by the Client due to the non- or incorrect performance of the software.

- 19.6. NewChannel is not liable for any accidents with or damage to the product supplied or delivered by NewChannel, e.g. due to incorrect or incompetent use or use contrary to the instructions for use.
- 19.7. If the Client or a third party makes changes to the goods delivered by NewChannel, NewChannel excludes all liability with regard to its functioning and possible (consequential) damage.
- 19.8. The Client is responsible himself for the decisions he makes, whether or not in response to advice from NewChannel.
- 19.9. NewChannel is never liable for any damage of any nature suffered by the Client in connection with the (non-)performance of equipment, software or (internet) connections of the Client.
- 19.10. NewChannel is not be liable for any maiming or loss of data as a result of the transmission of the data through telecom facilities.
- 19.11. If NewChannel, in its opinion, is forced to take measures or cooperate with recall actions initiated by manufacturers in order to prevent (further) damage as a result of claims by customers pursuant to a defect in delivered products, the Client commits himself to cooperate with such measures. NewChannel can never be held liable for the damage which the Client suffers as a result of initiated recall actions.
- 19.12. NewChannel is never be liable for indirect damage, including consequential damage, lost profits, lost sales, lost savings, reputational damage, data loss or data maiming, fines imposed and damage due to operational stagnation.
- 19.13. In case NewChannel is liable for damage suffered by the Client, the damage which NewChannel is obliged to compensate shall never exceed the invoice value of the work or of the order placed, the defect of which was the cause of the damage or - if such cannot be established - the invoice value of the work carried out by NewChannel on behalf of the Client at the time when the event causing the damage occurred.
- 19.14. The exclusions and limitations of liability mentioned in this article, as well as the indemnity referred to in article 7.6, are also imposed on and for the benefit of NewChannel's subordinates and anyone else whose assistance NewChannel makes use of for the implementation of the agreement.
- 19.15. Rights of claim and other powers of the Client on any grounds with regard to NewChannel will lapse in any event following the expiry of 1 year from the moment an event occurs whereby the Client can exercise these rights and/or powers vis-à-vis NewChannel.
- 19.16. If the Client has provided goods and/or materials and/or facilities to NewChannel for the purpose of carrying out the work and these goods and/or materials and/or facilities are not suitable for the purpose they were provided for to NewChannel, the Client is liable for all resulting damage.

**Article 20. Force majeure**

- 20.1. Force majeure is understood to mean any circumstance on the basis of which (further) fulfilment of the agreement by NewChannel cannot reasonably be required. This shall in any case - but not exclusively - be understood to mean: loss of data as a result of computer failure; virus infection or breakdown of computer intrusion by third parties; machine breakdowns and other calamities which prevent or limit NewChannel's business operations; internet and power failures; weather conditions; theft; fire; floods; landslides; terrorism; impediments by third parties; illness of the natural person implementing the agreement on behalf of NewChannel; impediments in transport; strikes; riots, wars or dangers of war; loss of or damage to products during transport; non-delivery or late delivery of products to NewChannel by its suppliers; export and import restrictions; fires, malfunctions and accidents at NewChannel's or its supplier's premises; means of transport of NewChannel, its supplier or an engaged transport company burning down, the occurrence of malfunctions to means of transport, involvement in accidents by means of transport; measures taken by any domestic, foreign or international authority.
- 20.2. By force majeure is also understood a non-attributable shortcoming on the part of NewChannel's suppliers.
- 20.3. In the event that NewChannel is prevented by force majeure from fulfilling all or part of the agreement, NewChannel will have the right, without judicial intervention, to suspend performance of the work or to consider the agreement as rescinded in whole or in part,

such at its discretion, without NewChannel being obliged to compensate any damage incurred by the Client.

- 20.4. In the event that NewChannel, at the time of the occurrence of force majeure, has already partially fulfilled its obligations vis-à-vis the Client resulting from the agreement and has partially carried out work for the Client - and the work already carried out has independent value - NewChannel will have the right to invoice the work in question separately. In that case, the Client is obliged to pay NewChannel's relevant invoice.

**Article 21. Safeguards**

- 21.1. The Client indemnifies NewChannel against claims by third parties concerning intellectual property rights to materials or data supplied by the Client that are used upon the implementation of the agreement.
- 21.2. If the Client provides NewChannel with information carriers, electronic files or software etc., the Client guarantees that the information carriers, electronic files or software are free of viruses and defects.

**Article 22. Intellectual property**

- 22.1. The title to all intellectual property rights to the software is lies with the software developer. The software is not sold; only rights of use and powers are acquired that are expressly granted by the software developer. The scope of the licence for the software is determined by the terms of use of the software developer. Under no circumstance will copyrights be transferred as a result of the delivery.
- 22.2. The software developer may have taken technical measures to protect its intellectual property rights to the software. If the software is secured through technical protection, it is not permitted to remove or bypass such protection.
- 22.3. All documents provided by NewChannel, such as reports, advice, agreements, designs, etc., are exclusively intended to be used for the benefit of the Client and may not be reproduced, made public or brought to the knowledge of third parties by the Client without the prior consent of NewChannel, unless it flows otherwise from the nature of the documents provided.
- 22.4. The Client must fully and unconditionally respect the intellectual property rights to the delivered products and software.
- 22.5. NewChannel reserves the right to use the knowledge gained through the execution of the work for other purposes, as long as no confidential information is thereby disclosed to third parties.
- 22.6. NewChannel has the right to sign and/or use all that has been manufactured by NewChannel to promote its own organisation and services. NewChannel has the right concerning to place the name and/or logo of the Client and a link to the website of the Client on its website.
- 22.7. If the Client finds that a third party violates the intellectual property rights of the software developer or of NewChannel, the Client must accordingly notify NewChannel immediately.
- 22.8. If the Client acts in violation of the intellectual property rights of NewChannel, the Client will be liable for all damage NewChannel suffers as a result.

**Article 23. Confidentiality**

- 23.1. Both parties are obliged to observe secrecy with regard to all confidential information obtained from each other or from any other source under their agreement. Information is considered confidential if such has been communicated by the other party or if it arises from the nature of the information. The party receiving confidential information shall only use it for the purpose it was provided for.
- 23.2. All advice, reports, results and other information provided by NewChannel with respect to the work to the Client must be treated confidentially by the Client. The Client has the right to duplicate such advice, reports, results or data provided for use within his own company. The Client shall not disclose such advice, reports, results and data to third parties, unless NewChannel has given its permission.
- 23.3. If NewChannel – pursuant to a statutory provision or a court decision - is obliged to disclose confidential information to third parties designated by law or by the competent

court and NewChannel cannot appeal to a statutory right of privilege nor to a right to refuse to give evidence acknowledged or allowed by a competent court, NewChannel is not obliged to pay damages or compensation and the Client is not entitled to rescind the agreement.

**Article 24. Termination**

- 24.1. NewChannel has the right to terminate the agreement in whole or in part without default notice and without any obligation to pay damages, or - at its own choice - to suspend the further implementation of the agreement, in case:
  - a. the Client is declared bankrupt;
  - b. the Client applies for suspension of payments;
  - c. the Client proceeds to liquidate his enterprise;
  - d. the Client is placed under forced administration or dies;
  - e. the Client does not fulfil any legal obligation towards NewChannel, or any obligation flowing from the agreement.
- 24.2. NewChannel has the right in the cases mentioned in article 24.1 to claim the fee owed by the Client to NewChannel immediately and in full.
- 24.3. The Client is obliged to notify NewChannel immediately if a circumstance within the meaning of article 24.1 occurs. In case a circumstance in the sense of article 24.1 sub e. occurs, the Client will fall into default legally and any debt to NewChannel will become immediately due and payable.
- 24.4. NewChannel reserves the right to claim damages at any time.

**Article 25. Transfer and obligations**

- 25.1. The Client does not have the right to transfer the rights and obligations resulting from the agreement concluded under these general terms and conditions of sale and delivery, in whole or in part, to third parties, without the prior written consent of NewChannel.

**Article 26. Applicable law and competent court**

- 26.1. The legal relationship between the Client and NewChannel is governed by Netherlands law.
- 26.2. Any disputes between the Client and NewChannel arising from or in connection with the agreement will be settled by the competent court in the district where NewChannel has its registered seat, to the exclusion of any other court.