

General terms and conditions

YDENTIC – IDENTITY & GOVERNANCE SOLUTIONS

Date: 1 January 2017

General Terms and Conditions of Ydentic B.V. – January 2017

Article 1. General

In these general terms and conditions, the following terms shall have the following meanings:

1. Client: the natural person or legal entity that has instructed the Contractor to carry out Work.
2. Contractor: "the private company with limited liability Ydentic B.V., having its registered office in Zwolle, the Netherlands, and registered in the trade register under number 67474756", which concludes the Agreement and applies these general terms and conditions. All Agreements are concluded with the Contractor, to the exclusion of Sections 7:404 and 7:407, paragraph 2 of the Dutch Civil Code, and are carried out exclusively by the Contractor. This also applies if it is the Client's explicit or tacit intention that the Work be carried out by a specific person or specific persons.
3. Work: all work commissioned or carried out by the Contractor on any other basis. This mainly involves work on developing applications, optimising and integrating processes, offering consultancy services and providing IT solutions.
4. The above applies in the broadest sense of the word.
5. Documents: all goods made available to the Contractor by the Client, including documents or data carriers, as well as all goods produced by the Contractor in the context of carrying out the order, and the working environment made available by the Client.
6. Agreement: any agreement between the Client and the Contractor for the Contractor to carry out Work for the Client.
7. Website: www.ydentic.com.

Article 2. Applicability

1. These general terms and conditions apply to: all offers, quotations, assignments, legal relationships and agreements, by whatever name, in which the Contractor undertakes or will undertake to carry out Work for the Client, as well as to all Work arising from these for the Contractor.
2. These general terms and conditions also apply to agreements with the Contractor, for the implementation of which Contractor must involve third parties.
3. Deviations from, and additions to, these General Terms and Conditions shall only be valid if expressly agreed upon in writing.
4. The Contractor explicitly rejects the applicability of the Client's general terms and conditions.
5. The underlying assignment/Agreement – together with these general terms and conditions – represents the complete arrangements between the Client and the Contractor regarding the Work for which the Agreement is concluded. All previous agreements or proposals made between the parties in this regard shall lapse.
6. In case of a lack of clarity regarding the interpretation of one or more provisions of these general terms and conditions or if a situation arises between the parties that has not been regulated in these general terms and conditions, the interpretation/assessment must be done "in the spirit" of these general terms and conditions.
7. If the Contractor does not always demand strict compliance with these general terms and conditions, this does not mean that the provisions thereof do not apply or that the Contractor would in any way lose its right to demand strict compliance with the provisions of these general terms and conditions in other cases.
8. If individual provisions of these general terms and conditions lose their effect, this shall not affect the validity of the remaining provisions of these general terms and conditions. The relevant provision shall cease to be valid and shall be replaced with a new provision to be determined by the Contractor that is legally permissible.
9. The Contractor declares the Dutch Distance Selling Act [*Wet Koop op Afstand*] applicable to its general terms and conditions.

Article 3. Choice of law and forum

1. All Agreements between the Client and the Contractor to which these general terms and conditions apply are governed exclusively by Dutch law. This also applies in the case of an Agreement with a Client located abroad.
2. All disputes relating to Agreements between the Client and the Contractor to which these general terms and conditions apply shall be settled by the competent court in the district in which the Contractor is domiciled.
3. By way of derogation from the provisions of paragraph 2, the Client and the Contractor may opt for another dispute resolution method.
4. The parties will only appeal to the court after they have made every effort to settle a dispute in mutual consultation.

Article 4. Commencement and duration

1. In principle, each Agreement is first concluded and commences at such time as the order confirmation signed by the Client is returned to the Contractor and is signed. The confirmation is based on the information provided by the Client to the Contractor at the time. The confirmation shall be deemed to set out the Agreement correctly and in full. If work is carried out without an order confirmation, an Agreement shall be concluded and commence at the time of written agreement between the parties.
2. The parties are free to prove the conclusion of the Agreement by other means.
3. Each Agreement shall be entered into for an indefinite period, unless it follows from the nature, content or tenor of the assignment given that it has been entered into for a definite period of time.

Article 5. Quotations and offers

1. Unless the quotation stipulates a period for acceptance, all quotations and offers of the Contractor shall be free of obligation. If no acceptance period has been set, no rights can be derived in any way from the quotation or offer if, in the meantime, the product to which the quotation or offer relates is no longer available.
2. The Contractor cannot be bound by its quotations or offers if the Client can reasonably understand that the quotations or offers, or any part thereof, contain an obvious mistake or clerical error.

3. Unless stated otherwise, the prices indicated in a quotation or offer are exclusive of VAT and other government levies, and exclude any costs to be incurred within the framework of the agreement, including travel and accommodation, postage and administration costs.
4. If the acceptance (whether on subordinate points or otherwise) deviates from the offer included in the quotation or offer, the Contractor shall not be bound by it. In that case, unless the Contractor indicates otherwise, the Agreement will not be concluded in accordance with this deviating acceptance.
5. A composite quotation shall not oblige the Contractor to carry out part of the assignment at a corresponding portion of the quoted price. Quotations or offers do not automatically apply to future orders.

Article 6. Client data

1. The Client is required to make all information and Documents that the Contractor believes are necessary for the proper implementation of the Agreement available to the Contractor in a timely manner, in the desired form and in the desired manner.
2. The Contractor has the right to suspend the implementation of the Agreement until the Client has met the obligation referred to in the previous paragraph.
3. The Client is required to inform the Contractor immediately of any facts and circumstances that may be relevant in connection with the implementation of the Agreement.
4. The Client guarantees the accuracy, completeness and reliability of the information and Documents made available to the Contractor by it or on its behalf, even if this information comes from third parties, and is liable for any damage arising from this.
5. The additional costs and additional fees resulting from the delay in the implementation of the Agreement because the required information was not provided, not provided in time or not provided properly, shall be borne by the Client.
6. If and insofar as the Client so requests, the Documents made available shall be returned to it, subject to the provisions of Article 17.

Article 7. Implementation of the Agreement

1. The Contractor determines the manner in which and by which person or persons the Agreement is to be implemented. If possible, the Contracted Party will take into account any timely and responsible instructions issued by the Client regarding the implementation of the Agreement.
2. The Contractor will carry out the Work to the best of his ability and as a professional acting with due care. However, the Contractor cannot guarantee the achievement of any intended result. The Contractor also takes the greatest possible care when compiling the website. However, any errors or omissions shall not give rise to liability on the part of the Contractor.
3. The Contractor has the right to have certain Work carried out by a person or third party designated by the Contractor, without notification to and explicit consent from the Client, if the Contractor considers this to be desirable.
4. If the Contractor or third parties engaged by the Contractor carry out Work in the context of the assignment at the Client's location or at a location designated by the Client, the Client shall provide the facilities that those employees reasonably require free of charge.
5. The Contractor has the right to implement the Agreement in various phases, to arrange partial deliveries and to invoice the part thus implemented separately.
6. If the Agreement is implemented in phases, the Contractor can suspend the implementation of those parts that are part of a subsequent phase until the Client has approved the results of the preceding phase in writing.
7. If during the term of the Agreement Work is carried out for the profession or business of the Client that does not fall under the Work to which the Agreement relates, this Work will be deemed to have been carried out based on separate Agreements.
8. Any deadlines set out in the Agreement within which the Work must be carried out are only approximate and not strict deadlines. Exceeding such a period therefore does not constitute an attributable shortcoming on the part of the Contractor and consequently does not constitute grounds for dissolution of the Agreement. Deadlines by which the Work must be completed must be regarded as firm deadlines if this has been expressly agreed upon in as many words between the Client and the Contractor.
9. In the event that the Client fails to properly fulfil his obligations towards the Contractor, the Client is liable for all losses incurred by the Contractor as a result, either directly or indirectly.

Article 8. Place of implementation

1. The Agreement can be implemented at the Client's premises or at the Contractor's premises.
2. The Client must ensure that the Contractor is able to carry out the agreed upon Work.

Article 9. Confidentiality

1. The Contractor and the Client are required to maintain secrecy towards third parties who are not involved in the implementation of the Agreement. This confidentiality shall apply to all information of a confidential nature which the parties make available to each other, and to the results obtained from the processing of that information.
2. The information provided shall not be used for any purpose other than that for which it was obtained, unless permission to do so has been granted.

Article 10. Intellectual property

1. The Contractor reserves the rights and powers vested in him under the Copyright Act [Auteurswet] and other intellectual property law and regulations. The Contractor shall have the right to use the knowledge it acquires in implementing an Agreement for other purposes as well, to the extent that no strictly confidential information of the Client is disclosed to third parties in the process.

2. It is explicitly prohibited for the Client to provide, reproduce, publish or exploit products arising from the Contractor's Work, with or without the involvement of third parties, without the Contractor's permission.
3. The Client is not permitted to make (resources of) those products available to third parties.

Article 11. Payment

1. The Client must pay the invoice amount within the agreed upon period, but in no case later than 30 days after the invoice date, in euros, at the office of the Contractor or by means of payments into a bank account to be designated by the Contractor and, insofar as the payment relates to Work, without any right to discount or setoff. The Contractor has the right to invoice periodically.
2. If the Client has not made payment within the period referred to in paragraph 1, or has not paid within the further agreed period, he shall be in default by operation of law and the Contractor shall be entitled, without any further demand or notice of default being required, to charge the Client the statutory (commercial) interest on the invoiced amount from the due date until the date of payment in full, all without prejudice to the Contractor's further rights.
3. The Contractor has the right to have the payments made by the Client go first towards reducing the costs, then towards reducing the interest still owed and finally towards reducing the principal sum and the current interest. The Contractor can refuse an offer of payment without falling into default as a result if Client designates a different sequence for the allocation of the payment. The Contractor can refuse full repayment of the principal sum, if this does not include the interest that has fallen due and the current interest and collection costs.
4. The Client shall never be entitled to set off the amount he owes to the Contractor. Objections to the amount of an invoice do not suspend the payment obligation. A client who is not entitled to invoke Section 6.5.3 (Article 231 to 247 of Book 6 of the Dutch Civil Code) is also not entitled to suspend payment of an invoice for any other reason.
5. All costs incurred as a result of judicial or extrajudicial collection of the claim shall be borne by the Client, including insofar as these costs exceed the judicial order for costs. If the Client is not a natural person acting in the course of a profession or business, the extrajudicial costs shall be set at a minimum of 15% of the amount to be claimed, with a minimum of €250.
6. If, in the Contractor's opinion, the Client's financial position or payment record warrants, the Contractor can require the Client to provide (additional) security in a form to be determined by the Contractor. If the Client fails to provide the requested security, the Contractor has the right, without prejudice to its other rights, to immediately suspend the further implementation of the Agreement and all that the Client owes the Contractor on any account whatsoever will be immediately due and payable.
7. In the event of a jointly awarded assignment, the Clients are jointly and severally liable for the payment of the invoice amount, insofar as the Work is carried out for the Clients jointly.

Article 12. Retention of title

1. The Contractor's goods delivered in the context of the Agreement will remain the Contractor's property until the Client has properly fulfilled all obligations arising from the Agreement(s) concluded with the Contractor.
2. The goods delivered by the Contractor that, pursuant to paragraph 1, are subject to retention of title, cannot be resold and can never be used as a means of payment. The Client is not authorised to pledge or otherwise encumber the goods falling under the retention of title.
3. The Client must always do everything that can reasonably be expected of him to safeguard the Contractor's property rights. If third parties seize the goods delivered subject to retention of title or wish to establish or assert rights to the goods, the Client will be required to inform the Contractor of this immediately. Moreover, the Client undertakes to insure and keep insured the goods delivered under retention of title against fire, explosion and water damage, as well as against theft and to make the insurance policy available for inspection by the Contractor upon first demand. In the event of any insurance payment, the Contractor shall be entitled to this money. To the extent necessary, the Client undertakes vis-à-vis the Contractor in advance to cooperate in everything that may (prove to) be necessary or desirable in that context.
4. In the event that the Contractor wishes to exercise its property rights as set out in this article, the Client grants its unconditional and irrevocable permission in advance to the Contractor and third parties to be specified by the Contractor to enter all those places in which the Contractor's property is located and to take back that property.

Article 13. Complaints

1. Complaints relating to the Work carried out and/or the invoice amount must be reported to the Contractor in writing within 10 days of the completion of the Work or of the information received about which the Client is complaining, or within 5 days of the discovery of the defect if the Client proves that it could not reasonably have discovered the defect earlier.
2. Complaints as referred to in the first paragraph will not suspend the Client's payment obligation, unless the Contractor has indicated that it considers the complaint to be justified.
3. In the event of a justified complaint, the Contractor can choose between adjusting the fee charged, correcting or carrying out the rejected Work again free of charge, or not (or no longer) carrying out the assignment in full or in part in return for a proportionate refund of the fee already paid by the Client.
4. In the event of an unjustly raised complaint, the costs incurred, including investigation costs, on the part of the Contractor will be borne in full by the Client.
5. If the complaint is not lodged in a timely manner, all Client's rights in connection with the complaint shall lapse.

Article 14. Force majeure

1. The Contractor shall not be required to fulfil any obligation towards Client if he is prevented from doing so as a result of force majeure.
2. In these general terms and conditions, force majeure is understood to refer to any shortcoming resulting from a breakdown in the Contractor's and/or Client's systems, as a result of which the Contractor is unable to carry out

- the Work. In addition, force majeure includes any failure not attributable to the Contractor because it is not due to a fault on the part of the Contractor and is not for its account by law, a legal act or generally accepted practice.
3. In the event of force majeure, the Contractor is entitled, at its own discretion and without prejudice to its other rights, to suspend the performance of the Work or to terminate the Agreement without judicial intervention by notifying the Client of this in writing and without the Contractor being required to pay any compensation, unless this would be unacceptable according to the standards of reasonableness and fairness in the given circumstances.
 4. Insofar as the Contractor has already partially fulfilled its obligations under the Agreement or will be able to fulfil the obligations at the time when the force majeure occurs, and insofar as independent value can be attributed to the part fulfilled or to be fulfilled respectively, the Contractor is entitled to invoice the part already fulfilled or to be fulfilled, respectively. The Client is required to pay this invoice as if it were a separate Agreement.

Article 15. Liability and indemnity

1. The Contractor is only liable towards the Client for damage that is the direct result of an (interconnected series of) attributable failure(s) in the implementation of the Agreement.
2. The Contractor is only liable for direct damage. This shall include only the reasonable costs of establishing the cause and extent of the damage, to the extent that such establishment relates to damage within the meaning of these general terms and conditions, any reasonable costs incurred to have the Contractor's defective performance conform to the Agreement, and reasonable costs incurred to prevent or limit the damage, to the extent that the Client demonstrates that these costs have resulted in the limitation of direct damage as referred to in these general terms and conditions. The Contractor is not liable for any indirect damage suffered by the Client or third parties, including consequential damage, loss of profits, lost savings and damage due to stagnation in the normal course of business at the Client's company.
3. The Contractor is not liable for any loss or damage suffered by the Client or third parties as a result of acts or omissions of auxiliary persons engaged by the Contractor (not including employees of the Contractor), even if these persons are employed by an organisation affiliated with the Contractor.
4. The Contractor is not liable for any damage to or the destruction of Documents during transport or dispatch by post, irrespective of whether the transport or dispatch is carried out by or on behalf of the Client, the Contractor or third parties. During the implementation of the Agreement, the Client and the Contractor can communicate with each other by electronic means. The Client and the Contractor are not liable towards each other for damage that may arise for one or both of them as a result of the use of electronic means of communication, including – but not limited to – damage resulting from non-delivery or delayed delivery of electronic communications by third parties or by software/equipment used to send, receive or process electronic communications, transmission of viruses and the non-functioning or improper functioning of the telecommunications network or other resources required for electronic communications. Both the Client and the Contractor will do or refrain from doing anything that can reasonably be expected of each of them to prevent the occurrence of the aforementioned risks. Until the recipient has furnished proof to the contrary, the data extracts from the sender's computer systems are binding evidence for (the contents of) the electronic communication sent by the sender.
5. The Contractor's liability is limited to the amount of a maximum of one time the invoice value of the Agreement, or at least to that part of the Agreement to which the liability relates.
6. The Contractor's liability shall be limited to the amount paid out in the relevant case by the Contractor's liability insurer, plus any excess to be borne by the Contractor under the insurance policy. If, for whatever reason, the liability insurer does not pay out, the Contractor's liability will be limited to the value specified in the previous paragraph.
7. The Contractor has the right at all times, if and in so far as possible, to remedy or limit the Client's loss by repairing or improving the Work that has been carried out improperly.
8. The Client indemnifies the Contractor against all claims from third parties that are directly or indirectly related to the implementation of the Agreement. The Client shall indemnify the Contractor in particular against claims from third parties for damage caused by the Client having provided the Contractor with incorrect or incomplete information.
9. The Client indemnifies the Contractor against all possible third-party claims in the event that the Contractor is compelled by law to return the assignment and/or is compelled to cooperate with government agencies that are authorised to receive information, whether solicited or unsolicited, that the Contractor has received from the Client or third parties in the fulfilment of the assignment. Should the Contractor be held liable by third parties for this reason, the Client is required to assist the Contractor both in and out of court and immediately do everything that may be expected of him in that case. If the Client fails to take adequate measures, the Contractor shall be entitled to do so itself, without notice of default. All resulting costs and losses incurred by the Contractor and third parties shall be fully at the expense and risk of the Client.
10. The limitations of liability included in this article do not apply if the damage is due to intent or gross negligence on the part of the Contractor or its managing subordinates.

Article 16. Expiry period

Unless stipulated otherwise in these general terms and conditions, rights of action and other powers of the Client vis-à-vis the Contractor on whatever account in connection with the implementation of Work by the Contractor lapse in any event one year after the Client became aware, or could reasonably have become aware, of the existence of these rights and competencies. This deadline does not refer to the possibility of submitting a complaint to the designated complaint handling body(ies) and/or the Dispute Resolution Board.

Article 17. Suspension and dissolution

1. The Contractor has the right to suspend the fulfilment of all its obligations, including the surrender of Documents or other items to the Client or third parties, until such time as all due and payable claims against the Client have been settled in full. The Contractor can only refuse the obligation to issue Documents after carefully weighing up the interests involved.

2. The Contractor shall be entitled to suspend the fulfilment of its obligations or to dissolve the Agreement if the Client fails to fulfil its obligations under the Agreement, or fails to fulfil them in full or in time, or if circumstances come to the knowledge of the Contractor after the Agreement has been concluded which give it good reason to fear that the Client will not fulfil its obligations; if, upon entering into the Agreement, the Client was requested to provide security for the fulfilment of its obligations under the Agreement and this security is not provided or is insufficient; or if, due to a delay on the part of the Client, the Contractor can no longer be required to fulfil the Agreement under the terms originally agreed upon.
3. Moreover, the Contractor has the right to dissolve the Agreement if circumstances arise that are of such a nature that performance of the Agreement is impossible or if other circumstances arise that are of such a nature that the unaltered maintenance of the Agreement cannot reasonably be required of the Contractor.
4. If the Agreement is dissolved, the Contractor's claims against the Client shall become immediately due and payable. If the Contractor suspends fulfilment of its obligations, it shall retain its claims under the law and the Agreement.
5. If the Contractor proceeds with suspension or dissolution, he shall not be liable in any way whatsoever for compensation of any resulting damage and costs.
6. If the dissolution is attributable to the Client, the Contractor shall have the right to compensation for the damages, including the costs, incurred directly and indirectly as a result.
7. If the Client does not fulfil his obligations arising from the Agreement and this non-fulfilment justifies dissolution, the Contractor has the right to dissolve the Agreement immediately and with immediate effect, without any obligation on his part to pay any compensation or indemnification, while the Client is required to pay compensation or indemnification due to breach of contract.

Article 18. Termination

1. The Client and the Contractor can terminate the Agreement at any time with immediate effect by giving notice.
2. Notice of termination shall be given to the other party in writing.
3. If and to the extent that the Contractor terminates the Agreement by giving notice, he must inform the Client of the reasons for the termination and do everything in the Client's interest that circumstances require.
4. If the Contractor terminates the Agreement prematurely, the Contractor will, in consultation with the Client, arrange for the Work still to be carried out to be transferred to third parties. The Contractor will do so unless the termination is attributable to Client. If the transfer of the Work results in additional costs for the Contractor, these costs will be charged to the Client. Unless the Contractor indicates otherwise, the Client shall be required to pay these costs within the specified period.
5. In the event of liquidation, suspension (or a request for suspension) of payments or bankruptcy, attachment – if and to the extent that the attachment has not been lifted within three months – at the Client's expense, debt rescheduling or another circumstance as a result of which the Client can no longer freely dispose of its assets, the Contractor shall have the right to terminate the Agreement at once and with immediate effect or to cancel the order or the Agreement, without any obligation on its part to pay any compensation or indemnification. In that case, the Contractor's claims against the Client shall become immediately due and payable.
6. If the Client cancels an order placed entirely or partially, the Work that was carried out and the items ordered or prepared for it, plus any supply, removal and delivery costs thereof and the working time reserved for the implementation of the Agreement, shall be charged in full to the Client.

Article 19. Location and amendment of the general terms and conditions

1. These general terms and conditions have been filed with the Chamber of Commerce under number 67474756.
2. At the Client's request, a written copy of these general terms and conditions shall be sent free of charge. The general terms and conditions are also available at www.ydentic.com.
3. The most recently filed version or the version that applied at the time the legal relationship with Contractor was entered into shall always apply.
4. The Dutch text shall always be decisive for the interpretation of the general terms and conditions.

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