

Article 1. General

1. These conditions apply to the agreement between Opti Business B.V., hereafter referred to as "Opti", and a Commissioner to which Opti has declared that these conditions apply, insofar as these conditions are deviated from explicitly and in writing by the parties.
2. The present conditions also apply to agreements with Opti for the execution of which Opti employs the services of a third party.
3. The following definitions apply:
 - Opti: sales organization that mediates on behalf of Commissioner, but will never be a contract party between the commissioner and the Final User.
 - Commissioner: supplier of products for which Opti serves as sales organization.
 - Final User: purchaser of products from supplier with which Commissioner initiates a contract after mediation by Opti.
4. These general conditions have been written by the employees and management of Opti.
5. The applicability of possible purchase or other conditions of the Commissioner is explicitly refused.
6. If one or multiple provisions in these general conditions are void or should become void at any moment, whether partly or completely, the remaining articles in these general conditions continue to be fully applicable. In that case, Opti and the Commissioner will negotiate new provisions to replace the void provisions, where the goal and the intention of the original provision will be considered as much as possible.
7. If the explanation of one or multiple provisions of these general conditions requires further clarification, the explanation must occur "in the spirit of" these provisions.
8. If a situation occurs between the parties that has not been provided for in these general conditions, this situation must be evaluated in the spirit of these general conditions.
9. If Opti does not always require strict compliance with these conditions, this does not mean that the provisions of these conditions do not apply, or that the User would lose any right to require strict compliance with the provisions of these conditions in other cases.

Article 2. Tenders and Offers

1. All Opti tenders and offers on behalf of the Commissioner are non-committal, unless the tender stipulates a term for acceptance. If no acceptance term has been stipulated, no rights can be derived from a tender or offer in any way if the product to which the tender or offer applies is no longer available in the mean time.

2. Opti cannot be held to its tenders or offers if the Commissioner can reasonably understand that the offers or tenders, or part of these, contain an obvious mistake or error.
3. The prices stated in a tender or offer are excluding VAT and other governmental levies, possible expenses to be made within the framework of the agreement, including travel and accommodation, shipping and administration expenses, unless indicated otherwise.
4. If the acceptance deviates from the offer included in the tender or offer (whether or not for secondary reasons), Opti is not held accountable to these. The agreement will not be initiated in agreement with this deviating acceptance, unless Opti indicates otherwise.
5. A composed price by Opti does not obligate the Commissioner to execute part of the order for a similar part of the indicated price. Offers and tenders do not automatically apply to future orders.

Article 3. Contract Duration; Execution Terms, Risk Transfer, Execution and Alteration Agreement; Price Increases

1. The agreement between Opti and the Commissioner is entered into indefinitely, unless arising otherwise from the nature of the agreement or if the parties have explicitly agreed upon differently in writing.
2. Opti is not liable for the execution of certain activities or for the delivery of certain matters for which a term has been agreed upon or stipulated. Liability is contractually agreed upon between the Commissioner and the Final User. Opti is not a contract party.
3. Opti will offer the Final Users an agreement to the best of its ability and in agreement with the requirements of the Commissioner and proper professionalism on behalf of the Commissioner. This and that on the basis of the current scientific knowledge. Opti is not a contract party between the Commissioner and the Final Users, and is safeguarded against every liability arising from the contract between the Commissioner and Final Users.
4. Opti does not perform any activities itself, nor does it represent Commissioners as a sales organization. An agreement will exclusively be made between the Commissioner and the Final Users. The activities are exclusively performed by the Commissioner.
5. Delivery occurs from the Commissioner' company. The Commissioner is obligated to deliver the matters in conformity with the agreement made with the Final User. If the Commissioner refuses delivery or is in neglect with regard to the delivery as this has been agreed upon in contract between the

Commissioner and the Final User, the Commissioner is liable for the arising damage for Opti and the Final Users.

6. Opti has the right to execute the agreement in various phases and thus to invoice the executed part separately.
7. If the agreement is executed in phases, Opti can suspend execution of the components belonging to a next phase until the Commissioner has approved the results of the previous phase in writing.
8. The Commissioner is responsible for ensuring that all information which Opti indicates to be necessary or which the Commissioner should reasonably understand to be necessary for the execution of the agreement is provided to Opti on time. If the information necessary for the execution of the agreement is not provided to Opti on time, Opti has the right to suspend execution of the agreement and/or to charge the expenses arising from the delay to the Commissioner according to the current rates. The execution term does not start before the Commissioner has provided Opti with the necessary information. Opti is not liable for damage of any nature whatsoever, due to Opti has relying on the incorrect and/or incomplete information provided by the Commissioner.
9. If the agreement must be altered or supplemented for a proper execution, during the execution of the agreement, the parties will adjust the agreement on time and through mutual consultation. If the nature, extent, or contents of the agreement, whether or not upon the request or indication of the Commissioner, of the authorized institutions, etc., are altered and the quantitative and/or qualitative aspects of the agreement are altered, this might have consequences for that which was originally agreed upon. Consequently, the originally agreed upon amount can also be increased or decreased. The user will seek to provide an indication of the altered price beforehand, if possible. As a result of an alteration in the agreement, the originally indicated term of execution might be altered. The Commissioner accepts the possibility that the agreement might be altered, including price alterations and alterations of the execution term.
10. If the agreement is altered, including supplements, Opti has the right to execute this after the authorized person within Opti has provided agreement and the Commissioner has agreed to the indicated price and other conditions, including the execution time to be determined. If the altered agreement is not executed immediately, it will not be considered a breach of contract on by Opti and does not give the Commissioner grounds to terminate or cancel the agreement.
11. Without being in neglect, Opti can refuse a request for an alteration of the agreement, if this could have qualitative and/or quantitative consequences (e.g., for the activities to be performed or the matters to be delivered).

12. If the Commissioner is in neglect with regard to proper compliance with that which he is obligated to toward Opti, the Commissioner is liable for all damage suffered by Opti, whether directly or indirectly.
13. If Opti has agreed upon a fixed price or fee, Opti, nevertheless, always has the right to increase this fee or price without the Commissioner having the right to dissolve the agreement for this reason; if the price increase arises from an authorization or obligation resulting from legislation, or regulations, or results from an increase in the price of raw materials, wages, etc., or on other grounds that could not have reasonably been foreseen when the agreement was made.
14. If the price increase, other than resulting from an alteration of the agreement, amounts to more than 10% and occurs within three months after the agreement has been made, only the Commissioner has the right to dissolve the agreement in writing, on the basis of title 5 department 3 of Book 6 Civil Code, unless Opti is willing to execute the agreement on the basis of the original agreement;
15. If the price increase arises from an authorization or an obligation of Opti in consequence of the law.

Article 4. Suspension, Dissolving, and Interim Termination of the Agreement

1. Opti is authorized to dissolve the agreement if the Commissioner does not meet the obligations arising from the agreement, or does not do so completely or on time, after the agreement has been made and Opti has become aware of the circumstances that give rise to the fear that the Commissioner will not meet the obligations. If the Commissioner has been asked to provide surety for its obligation compliance arising from the agreement when it was made, and if this surety is not provided or is lacking or if the Commissioner cannot fulfill its agreement obligations to Opti of the originally agreed upon conditions due to a delay on the side of the Commissioner, Opti has the right to suspend, dissolve, or invoke an interim termination of the agreement.
2. Subsequently, Opti is authorized to dissolve the agreement if circumstances occur that are of such a nature that compliance with the agreement is impossible or if other circumstances occur that are of such a nature that unaltered continuation of the agreement cannot reasonably be negotiated by Opti.
3. If the agreement is dissolved, the claims of Opti to the Commissioner are immediately claimable.
4. If Opti moves to suspend or dissolves the agreement, it is not obligated to any compensation for damages or expenses that have arisen as a result.
5. If the dissolving can be attributed to the Commissioner, Opti has the right to a compensation of the damage it suffered, including the expenses that arose directly and indirectly.
6. If the Commissioner does not meet its obligations arising from the agreement and this non-compliance justifies dissolving, Opti has the right to dissolve the agreement immediately without any obligations to pay any damage compensation or restitution, while the Commissioner, by reason of a breach of contract, is obligated to pay damage compensations or restitutions.
7. If case of interim termination of the agreement by Opti, Opti will be responsible for the transfer of the activities yet to be performed upon consultation with the Commissioner, unless the termination can be attributed to the Commissioner. If the transfer of the activities results in additional expenses for Opti, these expenses will be charged to the Commissioner. The Commissioner is obligated to pay these costs within the stipulated term, unless Opti indicates otherwise.
8. In case of liquidation, (requesting) automatic stay or bankruptcy, seizure – if and insofar as this has not been resolved within three months – sustained by the Commissioner, personal bankruptcy, or another circumstance due to which the Commissioner no longer freely has access to his capital, Opti has the right to immediately terminate or cancel the agreement, without any obligations with regard to payment of any damage compensation and restitution. In that case, Opti's claims on the Commissioner will become immediately claimable.

9. If the Commissioner cancels an agreed upon contract with Final Users, either partly or completely, the arising damage suffered by Opti will be charged to the Commissioner.

Article 5. Force Majeure

1. Opti is not obligated to meet any obligation toward the Commissioner if he/she is hindered in doing so as the result of a circumstance that cannot be attributed to blame, and cannot be attributed to by law, a legal instrument, or the applicable notions in traffic.
2. In addition to the legal and jurisprudence definition of force majeure, force majeure in these general conditions refers to all external causes, whether foreseen or unforeseen, which Opti cannot influence, yet which prevent Opti from meeting its obligations. This includes strikes occurring at Opti or the company of a third party. Opti also has the right to refer to force majeure if the circumstance that prevents (further) compliance with the agreement occurs after Opti should have met its obligations.
3. During the period the force majeure, Opti can suspend the obligations arising from the agreement. If this period lasts longer than 2 months, each party has the right to dissolve the agreement, without obligations to compensate the other party for damages.
4. Insofar as Opti has partly met its obligations arising from the agreement when the force majeure occurred or will be able to meet its obligations, and an independent value can be attributed to that part of the agreement, Opti has the right to invoice that part separately. The Commissioner is obligated to pay this invoice as if this concerned a separate agreement.

Article 6. Payment and Collection Fees

1. Payment should always occur within 14 days after the invoice date, as stipulated by Opti, in the invoiced currency, unless otherwise indicated by Opti in writing. Opti has the right to invoice periodically.
2. If the Commissioner remains in default with regard to the timely payment of an invoice, the Commissioner is legally in default. In that case, the Commissioner owes an interest of 1% per month, unless the legal interest is higher, in which case the legal interest is owed. The interest for a claimable amount will be calculated from the moment the Commissioner is in default until the moment the full-owed amount is paid.
3. Opti has the right to use the payments made by the Commissioner to first reduce the costs, subsequently to reduce the arrear interest, and finally to reduce the main amount and the current interest. Opti can, without being in default, refuse an offered payment, if the Commissioner requests another order for attributing the payment. Opti can refuse full payment of the main amount, if the arrear and current interest and collection fees are not also paid.

4. The Commissioner never has the right to settle the amount he owes to Opti. Objections against the invoice amount do not suspend the payment obligation. A Commissioner who cannot appeal to department 6.5.3 (articles 231 until 247 book 6 Civil Code) also does not have the right to suspend payment of an invoice for any other reason.
5. If the Commissioner is in default with regard to (timely) compliance with his obligations, all reasonable, extrajudicial expenses made to obtain payment are to be paid by the Commissioner. The default of the Commissioner who is a natural person, who does not act in a profession or on behalf of a company (private commissioner), occurs after he/she has been sent a reminder of payment within fourteen days after the day the reminder was sent and payment has not been made. The reminder will also stipulate the consequences of unmade payments. The extrajudicial expenses are calculated on the basis of that which is common collection practice in the Netherlands. However, if Opti has incurred higher expenses for collection than what was reasonably necessary and the Commissioner is not a natural person who does not act in a profession or on behalf of a company (business commissioner), the actual expenses are eligible for compensation. The possible judicial and execution costs will also be collected from the Commissioner. The Commissioner also owes interest for the owed collection fees.

Article 7. Guarantees, Inspection and Complaints, Term of Limitation

1. Opti will function as sales organization on behalf of Commissioner in a way that meets the usual requirements and demands of the Commissioner that can reasonably be established. The guarantee mentioned in this article applies to matters intended for Final Users as stipulated by the Commissioner. The Commissioner must verify whether the usage of the guarantee is suitable for use and applicability by Opti with regard to (inter)national potential Final Users. Opti is in no way liable for possible damage ensuing from guarantee agreements made between the Commissioner and Final Users.
2. The Commissioner is obligated to inspect the matters delivered by it (or have these inspected), immediately upon the moment the matters have been made available to it or when the activities concerned have been performed. In doing so, the Commissioner must inspect whether the quality and/or quantity of the delivered matches that which was agreed upon with the Final Users and meets the demands agreed upon between the Commissioner and the Final Users.
3. If the Final Users file a complaint on time, this does not suspend the Commissioner's payment obligation to Opti.

Article 8. Liability

1. Opti is in no way liable for contractual agreements between the Commissioner and Final Users that have arisen by means of Opti's mediation.

Article 9. Safeguarding

1. The Commissioner safeguards Opti for possible agreements of Final Users and third parties that suffer damage with regard to the execution of the agreement between the Commissioner and Final Users, and of which the cause cannot be attributed to Opti. If Opti is addressed by a third party for this reason, the Commissioner is obligated to aid Opti, both with judicial and extrajudicial measures, and immediately do all that can be required of it immediately. If the Commissioner fails to take adequate measures, Opti has the right to take such measures itself, without filing a notice of default. All expenses and damage suffered by Opti and third parties arising from this situation are at the expense and risk of the Commissioner.

Article 10. Intellectual Property

1. Opti retains the rights and authorities it has on the basis of the Copyright Law and other intellectual laws and regulations. Opti has the right to use the knowledge it obtains through the execution of an agreement for other purposes as well, insofar as this does not concern revealing strictly confidential information of the Commissioner to a third party.

Article 11. Applicable Law and Disputes

- 1 The Dutch law exclusively applies to all legal relationships in which Opti is a party, also if a relationship is executed abroad, partly or completely, or if the party involved in the legal relationship lives abroad. The applicability of the Vienna Convention is excluded.
- 2 The judge in the city of Opti is exclusively authorized to be informed of the disputes, unless the law stipulates otherwise. Nevertheless, Opti has the right to submit the dispute to a legally authorized judge.
- 3 Parties will only appeal to the judge after they have attempted to solve a dispute themselves.

Article 12. Location and Alteration Conditions

- 1 These conditions have been filed at the Chamber of Commerce in Amsterdam.
- 2 The latest version, or the version that applied when the legal relationship with Opti was formed, always applies.
- 3 The Dutch text of the general conditions is always leading for the explanation of the general conditions.