

General Terms and Conditions of Supply OR Consultancy

1. Applicability

1. Unless agreed otherwise in writing, these General Terms and Conditions are applicable to the services provided by the Contractor. Unless accepted explicitly and in writing, reference by the Client to its own general terms and conditions is rejected by the Contractor.
2. The Contractor has the right to amend these General Terms and Conditions. Amendments to the General Terms and Conditions shall also be applicable to the existing Contracts. The Contractor shall notify the Client in a timely manner about amendments to the General Terms and Conditions and shall publish the amended General Terms and Conditions on its website. The amended General Terms and Conditions shall come into force two weeks after notification, or on such later date as may be determined in the notification.

2. Definitions

The following definitions apply in these General Terms and Conditions:

1. Contractor: OR Consultancy B.V. and/or OR Consultancy Ontwikkeling B.V.
2. Staff: the Contractor's employees.
3. External Parties: external experts, freelancers or associates, specialists, actors, etc., engaged on the instructions of the Contractor and/or the Client.
4. Practitioners: Staff and/or External Parties.
5. Client: the entity with whom the Contract is concluded.
6. Participant: the Client, or the person(s) for whom the Client has concluded the Contract.
7. Service: the service provided by the Contractor for the benefit of the Client by virtue of the relevant Contract.
8. Contract: a contract for the provision of a Service in accordance with Article 4.
9. Performance Date: the date on which the Service is provided or, if applicable, the Product is supplied, such as the training date, coaching date, meeting date, assessment date, date on which the Products are made available.
10. Material: materials that the Contractor makes available for the Service, such as instruments, (online) questionnaires, portals, bundles, licences, e-learning.
11. Product: results of a Service, such as reports.
12. Offer: a proposal made by the Contractor for the provision of a Service for a specific price.

3. Offers

1. Each Offer from the Contractor in whichever form it is made is without obligation and is only binding after a Contract has been concluded in respect of that offer.
2. Offers are valid for 1 month and must be signed and returned at least 4 weeks before the planned performance. Offers issued less than 4 weeks prior to the performance must be signed and returned within 1 week of receipt.
3. Offers from the Contractor are based on information received from the Client. The Client guarantees that it has provided all required information to the best of its knowledge.

4. Contract conclusion

The Contract for the provision of a Service shall be concluded by:

1. a) Legally valid signing by the Client of the Offer drawn up by the Contractor, or
b) Written confirmation by the Contractor of the online registration or the telephone or written instruction from the Client for a Service at a specific price, or
c) Written confirmation by the Contractor of the verbal agreement with the Client for a Service to be provided at a specific price, or
d) Actual commencement in good faith of the delivery of a Service by the Contractor (irrespective of whether this is or is not for a specific price).

2. Verbal undertakings by and agreements with the Contractor's Staff or External Parties shall only be binding on the Contractor insofar as and after they are confirmed in writing by the Contractor.

5. Confidentiality

Insofar as the Contractor is provided with confidential information from the Client within the framework of a Contract, the Contractor shall only use that information within the framework of its service provision. The Contractor shall maintain confidentiality with regard to this confidential information unless disclosure of this information is necessary for the provision of the Contractor's service, if the Contractor is legally obliged to disclose this information, if the Contractor has to defend itself before the (disciplinary) court, if the Client has exempted the Contractor from the confidentiality obligation or if the information has been obtained from or is available from sources in the public domain. Within the framework of the Contract the Contractor shall implement all necessary precautionary measures in order to protect the confidentiality of the confidential information.

Without the permission of the Contractor, the Client shall not communicate to third parties not involved in the Contract any information regarding the Contractor's approach, procedures, prices, etc., such being in the broadest sense of the word.

6. Data protection

Terms such as 'processing', 'Personal Data', 'Controller', 'Processor' have the same definition as set out in the General Data Protection Regulation (GDPR).

1. Protection of Personal Data by the Contractor as Controller

Unless Article 6.2 paragraph 1 is applicable, the Contractor shall, in principle, act as the Controller for the processing of Personal Data for the delivery of the Services to the Client on the basis of a Contract. In their capacity as Controller for their own processing of Personal Data the parties shall remain independently responsible for compliance with all applicable legislation to protect Personal Data.

2. Protection of Personal Data by the Contractor as Processor

Insofar as the Contractor processes Personal Data within the framework of a Contract for the benefit of the Client, as described below under a) and the Client therefore determines the purposes of and the resources for the data processing the Client shall act as the Controller for the processing of the Personal Data and the Contractor shall act as the Processor and the other provisions of this paragraph 2 shall be applicable. Contractor and Client shall hereto conclude a separate Data Processing Agreement.

- a) Within the framework of performing a Contract, the Contractor can process the Personal Data of Test Participants that the Contractor obtains from the Client or directly from the Test Participant ('Test Participant Data'). The Contractor shall process this Test Participant Data in order to be able to invite a Test Participant to take a test. The Contractor shall then process the data entered during the tests ('Test Data') in order to generate the requested results ('Results'), for example in the form of a report. In this case, the Client acts *only* as the Controller and the Contractor as the Processor with regard to the processing of Personal Data that forms part of the Test Participant Data, Test Data and Results.
- b) The Contractor shall only process this Personal Data in a manner which – and insofar as this – is necessary for delivering the Services arising under a Contract and in accordance with the instructions of the Client, except when this is necessary in order to comply with a legal obligation imposed on a Processor.
- c) Without prejudice to the existing contractual arrangements between the Parties, the Contractor shall maintain strict confidentiality with regard to all Personal Data and shall inform the Practitioners and/or approved Sub-Processors involved in the processing of the Personal Data about the confidential nature of the Personal Data. The Contractor is responsible for ensuring that such persons and parties sign a satisfactory confidentiality agreement. In accordance with Article 6.2 paragraph d, the Parties shall maintain strict confidentiality with regard to all information that the Processor has to provide to the Controller.
- d) Without prejudice to potential security standards that the Parties may have agreed elsewhere, the Contractor shall implement appropriate technical and organisational measures to safeguard the processing of Personal Data. In any event, these measures include:

- I. measures to guarantee that only authorised persons have access to the Personal Data;
 - II. measures to protect the Personal Data against unintentional or unlawful destruction, unintentional loss or amendment, unauthorised or unlawful storage, processing or disclosure;
 - III. measures to identify weak areas with regard to the processing of Personal Data in the systems used for delivering Services to the Processor;
 - IV. any additional measures that the Parties agree.
- e) The Contractor shall ensure that an appropriate security policy is implemented for the processing of Personal Data. On the written request of the Client the Contractor shall provide the Client with a written copy of this policy, demonstrate what measures have been implemented on the basis of this Article and shall permit the Controller, if this relationship is applicable between the Parties and if there is a genuine need (for example as a result of a security incident) to audit and test such measures and the Contractor shall amend the security policy in accordance with the further written instructions of the Controller.
- f) The Parties acknowledge that security requirements change continuously and that effective security requires frequent evaluations and regular improvements of outdated security measures. The Contractor shall therefore continuously evaluate and refine, supplement or improve the measures implemented on the basis of this Article in order to permanently meet the requirements of this Article.
- g) In its role as Processor the Contractor shall immediately notify the Client of incidents relating to the processing of the Personal Data and shall at all times assist the Controller and shall follow the instructions of the Controller with regard to such an incident, with the aim of allowing the Controller to conduct a proper investigation into the incident, formulate a correct response and to take appropriate follow-up steps in respect of the incident. In its role as Controller, the Contractor shall notify the Client immediately about the incident in the event that this can have consequences for the Client.
- h) An 'incident' means the following:
- I. a complaint or (information) request from a natural person with regard to the processing of Personal Data by the Processor;
 - II. an investigation into or attachment by government officials concerning the Personal Data, or a suspicion that such may take place;
 - III. every unauthorised or unintentional access, processing, deletion, loss or any form of unlawful processing of the Personal Data;
 - IV. a breach of security and/or confidentiality, as explained above, that results in an unintentional or unlawful destruction, loss, change, unauthorised disclosure of – or access to – the Personal Data, or any indication that such a breach shall take place or has taken place.
- i) Notices are to be sent to the Controller.
- j) In the role of Processor, the Contractor shall not – without the prior permission of the Client subcontract to a third party the activities that consist (in part) of processing the Personal Data or which require that Personal Data is to be processed. The Contractor shall ensure that the third party is bound by the obligations imposed on the Contractor and shall ensure that these are complied with.
- k) The permission of the Controller for subcontracting to a third party does not affect the fact that the Client's permission is required if third parties are to be used that are located in a country outside of the European Economic Area without an appropriate level of protection.
- l) On the instructions of the Client, the Test Participant Data can be enriched with information provided by the Client or by additional information gathered by the Contractor. The processing of this information and its linking to the Test Participant Data, Test Data and Results is undertaken by the Contractor in its role of Processor; the Client acts as the Controller in this. The Contractor shall only share the results arising from the above with third parties, including the Client, in an aggregated and anonymised form, or, in the event that Personal Data is to be issued to third parties or to the Client, with the permission of the Test Participant, which permission is to be obtained by the Client. That which is stipulated in this Article is correspondingly applicable to this processing.

- m) The Client permits the Contractor to use the Test Data and Results for the validation and standardisation of tests as well as for benchmarking purposes and statistical analyses. With the explicit permission of the Test Participant, the Contractor gathers information in the form of answers to optional demographic questions that are asked within the testing framework ("Background Information"). The Contractor is the Controller with regard to the processing of this Background Information. Any decision by the test Participant not to answer the optional questions shall neither influence the possibility of the Test Participant to take the test nor shall it influence the Results of the test. The Contractor shall only share the Results from the above with third parties, including the Client, in an aggregated and anonymised form.

7. Intellectual property rights

1. The Contractor is title-holder with regard to all Products (including reports), Materials (including manuals and web portals) and procedures involved in its Service, as well as in respect of the intellectual property rights vested in these Products, Materials and procedures. The Contractor can also make use of Materials in respect of which the rights are vested in third parties. The Client shall respect and take account of agreements between third parties and the Contractor with regard to these Materials.
2. Intellectual property rights include, though are not limited to, copyrights (including copyrights on algorithms and/or software), database rights, model rights, brand rights, patent rights, trade name rights, domain name rights, rights to knowhow and/or any other form of protection that grants rights on inventions, models, designs, company secrets, confidential information or technical information in any form.
3. A Contract does not involve any transfer of rights unless explicitly specified otherwise in a Contract, and the Contractor therefore retains all authorities arising from the intellectual property rights.
4. Insofar as applicable, the Contractor grants the Client permission to use within the Client's own organisation the Products and Materials belonging to the Contractor in accordance with the terms and conditions stipulated in the Contract for such use and exclusively insofar as is necessary for the intended purpose of the Service.
5. Insofar as the permission stipulated in Article 7.4 provides for a bundle of multiple user rights in respect of Products and/or Materials it applies that the agreed numbers of user rights are purchased within the agreed duration of the Contract. The validity of the bundle shall be cancelled after the end of the Contract duration and any unused user rights shall be cancelled.
6. The Client guarantees the Contractor that the use of data provided to the Contractor by the Client is not in conflict with statutory provisions and does not breach the protected rights of third parties. The Client indemnifies the Contractor against all direct and indirect consequences of claims from third parties against the Contractor as a result of failure to comply with this guarantee.

8. Recruiting of Contractor's personnel

During the performance of the Contract and for a period of 1 year after the Contract ends, the Client may not employ any of the Contractor's employees or negotiate employment terms with employees or make use of services to be provided by employees in another capacity, other than following consultation with the Other Party.

9. Rates and charges

1. The rates relating to the Service and any additional charges are listed in the Contract.
2. With regard to the rates and the cost estimates based on those rates it states in the Offer whether they include the secretariat costs, travel time, travel and accommodation expenses and other costs associated with the Service. The Client shall be notified insofar as these costs are not included. These costs shall be calculated separately. Rates can be amended annually and the Client shall be notified of this change in advance.
3. For work undertaken on a Friday evening and Saturday on the request of the Client the Contractor shall charge a surcharge of 50%. The surcharge for working on a Sunday is 100%.

10. Payment terms

1. Payment is to be made in the manner specified by the Contractor within 30 days after the date of the invoice.
2. Depending on the Service to be provided, a Contract can include specific payment terms that are matched to the Service.
3. After the term specified in Article 10 paragraph 1 has lapsed the Client shall be in default by operation of the law and on that basis shall be liable to pay loss due to delay in accordance with Article 6:119a of the Netherlands Civil Code.
4. In the event of default, the Contractor shall also be entitled, without further notification and/or notice of default, to suspend all Services yet to be provided and to take measures to collect the debt. The Client is liable for the (extrajudicial) costs incurred by the Contractor in order to obtain payment for the invoice.
5. Without the explicit written permission of the Contractor, the Client is not permitted to offset any payment obligation towards the Contractor for whatever reason against a claim that the Client may have against the Contractor. Furthermore, the Client is not permitted to suspend its payment obligation.

11. Contract performance

1. The Client shall provide all information the Contractor needs in a timely manner in order to ensure that the Contract shall run smoothly.
2. If requested by the Contractor, the Client shall provide, without charge, at the Client's premises, the resources required for the performance of the Contract.
3. The performance of the Contract by the Contractor has the character of a 'best efforts obligation'. The Contractor shall do its best to achieve the required results, however, the result cannot be guaranteed.
4. Unless the Client specifically objects in advance, the Contractor has the right to involve or engage third parties for the Service delivery.
5. The Contractor shall make all reasonable efforts to deliver the Service with due regard for the rules of conduct stipulated in this Article. The rules of conduct can be requested from the Contractor. If the Contract is to be performed by an NIP-registered psychologist then the NIP Professional Code of Conduct shall (also) apply.
6. **Open training and courses**
 - a) The NRTO Professional and Business Code of Conduct is applicable.
 - b) The Contractor shall organise the venue and the meeting arrangements, which may or may not include evening meal and overnight accommodation. The costs of this shall be paid by the Client.
7. **In-company and customised training and courses**
 - a) The NRTO Professional and Business Code of Conduct is applicable.
 - b) The Client shall organise the venue and the meeting arrangements, which may or may not include an evening meal and/or overnight accommodation, including for the Contractor's employees and/or external parties who shall be performing the Contract. All costs associated with this are to be paid by the Client.
8. **Advice, guidance, coaching**
 - a) At group/organisation level: the ROA general rules of conduct are applicable on the understanding that the Contractor is not a member of the ROA.
 - b) The duration of the Contract can be influenced by a range of factors, such as the quality of the information that the Contractor is provided with and the assistance provided by the Client and/or Participant. The Contractor cannot therefore be bound to the estimated duration and/or Service delivery time.

12. Amending and cancelling the Contract

1. If an interim change to the Service arises due to the actions of the Client, the Contractor shall make the necessary amendments to the Contract. If the extension, change and/or amendment results in (additional) costs, the Contractor shall be entitled to charge these costs to the Client.
2. The Contractor can change the Practitioners if it is of the opinion that this is necessary for the delivery of the Service. The change may not reduce the quality of the Service delivery or have a negative impact on the Service continuity. In consultation with the Contractor, a change to the Practitioners can also be undertaken on the request of the Client.

3. In the event of illness or other unusual circumstances relating to the Practitioners, the Contractor can relocate or cancel the delivery of the Service subject to payment for the venue costs if and insofar as that is owed by the Client and, in the event of cancellation, also subject to crediting of the agreed price.
4. The Contractor can terminate or cancel the Contract early if it is of the opinion that the Service can no longer be delivered in accordance with the Contract and any subsequent additional Contract specifications. This has to be substantiated and notified to the Client in writing.
5. In addition to the general amendment and cancellation clauses, as stipulated in Articles 12.1-12.5, the specific amendment and cancellation clauses stipulated in Articles 12.6-12.10 also apply.
6. **Open training and courses**
 - a) The Contractor has the right:
 - I. to implement an interim amendment to the programme due to requirements specified by third parties or for other qualitative reasons;
 - II. to change the venue and/or Performance Date;
 - III. to change the performance of the Service or to cancel the performance of the Service up to a maximum of two weeks prior to commencement of the training in the event of insufficient registration
 - IV. to reduce or increase the group size.
 - b) The Client has the right:
 - I. to send a suitable replacement in the event that the original Participant is unable to attend. In the event that a Participant fails to attend on the first day of training or in the event of early termination of the participation, the full price of the course as well as full arrangement costs shall be charged. There is no opportunity to catch up on missed meetings.
 - II. to change the venue and/or Performance Date. This can be done without charge up to four weeks prior to the Performance Date. In the event of changes within four to two weeks prior to the Performance Date, the Client shall owe 25% of the course fee and the arrangement costs and within two weeks prior to the Performance Date, the Client shall owe 50% of the course fee and the arrangement costs. The new venue and/or Performance Date shall be determined jointly with the Contractor.
 - III. to cancel the Contract in writing. This can be done without charge up to four weeks prior to the Performance Date. In the event of cancellation within four weeks prior to the Performance Date, the Client shall be charged 100% of the course fee and the arrangement costs.
7. **In-company and customised training and courses**
 - a) The Client has the right:
 - I. to change the venue and/or Performance Date. This can be done without charge up to four weeks prior to the Performance Date. In the event of changes within four to two weeks prior to the Performance Date, the Client shall owe 25% of the course fee and within two weeks prior to the Performance Date, the Client shall owe 50% of the course fee. The new venue and/or Performance Date shall be determined jointly with the Contractor.
 - II. to terminate the Service provision early. In this case the Client shall continue to owe the full course fee.
 - III. to cancel the Contract in writing. This can be done without charge up to four weeks prior to the first Performance Date. In the event of cancellation within four weeks prior to the first Performance Date, the Client shall be charged 100% of the course fee.
 - IV. if the Contractor has organised the venue and the meeting arrangements on behalf of the Client, the change and cancellation costs of these shall also be charged to the Client in full.
8. **Advice, guidance, coaching, (feedback) review**
 - a) The Client has the right:
 - I. to change the date of the review(s) in writing. This can be done without charge up to five working days prior to the relevant review. In the event of a change within five working days prior to the review, the Client shall owe 50% of the agreed price and 100% if the cancellation is on the actual day of the review. The new review date shall be set jointly with the Contractor.
 - II. to terminate the Service provision early. In this case the Client shall continue to owe the full agreed price.

- III. to cancel the Contract in writing. This can be done without charge up to four weeks prior to the Performance Date. In the event of cancellation within four weeks prior to the Performance Date, the Client shall be charged 100% of the agreed price.
- IV. if the Contractor has organised the venue and the meeting arrangements on behalf of the Client, the change and cancellation costs of these shall also be charged to the Client in full.

9. Products and Materials

- a) It is not possible to cancel Products and Materials that have been made available.

13. Force majeure

In these General Terms and Conditions, force majeure means every situation beyond the control of the Contractor, even if such situation was already foreseen at the time the Contract was formed, that permanently or temporarily hinders compliance with the Contract as well as, insofar as not already included under that, wars, the threat of war, civil war, riot, work strike, fire, computer failure suffered by the Contractor, long-term illness of Practitioners and other serious interruptions suffered by the Contractor or its suppliers.

14. Suspension and termination

1. In the event of hindrance in performance of the Contract due to force majeure, the Contractor shall contact the Client and the Contractor shall have the right, without the need for legal intervention:
 - a) to either suspend performance of the Contract for as long as the situation resulting in force majeure and the consequences of that force majeure continue;
 - b) or terminate the Contract in full or in part without the Contractor being held liable to pay any compensation.
2. During the suspension as referred to in Article 14.1, the Contractor has the right and at the end of this suspension is obliged to choose between performance of the Contract and full or partial termination of the Contract.
3. If the Client fails to meet, does not properly meet or is late in meeting any obligation arising on the Client under any Contract concluded with the Contractor or under any associated agreement, or if there are good grounds for fearing that the Client is unable or will be unable to meet its contractual obligations towards the Contractor, as well as in the case of bankruptcy, suspension of payments, shut down, liquidation or partial transfer – whether or not as security – of the Client's business, including the transfer of a significant share of its receivables, the Contractor shall have the right – without notice of default and without the need for legal intervention to:
 - a) either suspend performance of the Contract for a maximum of six months;
 - b) terminate the Contract in full or in part. In that case, and without prejudice to any other rights it has, the Contractor is not liable to pay any compensation or honour any guarantee.
4. During the suspension, as referred to in Article 14.3, the Contractor has the right and at the end of this suspension is obliged to choose between performance and the full or partial termination of the suspended contract(s).
5. In the event of suspension by virtue of paragraph 3, the Client shall owe a penalty of 50% of the agreed fee which – to be calculated from the moment of the actual termination of the work – would have been due had the Contract continued as normal. This penalty is due and payable immediately.

15. Complaints

Complaints relating to the Services provided and/or that which is supplied must be submitted to the Contractor in writing no later than within 30 working days after delivery. Failure to do so shall be deemed to be acceptance by the Client of the Service provided.

16. Disciplinary law

Depending on the Service provided it is possible that professional codes of conduct apply which are promoted by the relevant professional organisation, as a result of which complaints are investigated and – if breaches are found – disciplinary measures can be taken.

17. Liability

Except in the case of an intentional act or gross negligence, the Contractor accepts no liability for losses resulting from the Services provided and/or the use of that which is supplied or due to their unsuitability for the purpose for which the Client has purchased that which has been supplied. The Contractor is not liable for illegal acts committed by External Parties.

In any event, liability shall be limited to the amount or the amounts of the fee charged for that Service or the total amount of that which is supplied insofar as the amount is covered by the Contractor's liability insurance. For Contracts with a duration exceeding 6 months, a further liability limit up to a maximum of the invoice amount of the last six months applies.

18. Disputes and governing law

These General Terms and Conditions and the Contracts are governed by Dutch law. All disputes arising under or as a result of legal actions to which these General Terms and Conditions apply shall be settled by the competent legal body within the Midden-Nederland judicial district except in the case of an alternative choice of forum explicitly agreed between the Parties.