

General terms and conditions of supply

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The General Terms and Conditions of Supply of Leiden University, amended by resolution of the Executive Board of 8 July 1999.

Definitions

In these General Conditions:

- a. "University" means Leiden University, the user of general conditions (within the meaning of section 231(b) of Book 6 of the Netherlands Civil Code).
- b. "Other Party" means the natural person or legal entity, or his/its legal successor, on whose behalf or on whose account the University has entered into a contract to supply goods or services and/or carry out work (within the meaning of section 231(c) of Book 6 of the Netherlands Civil Code).

General provisions

1. These General Conditions are applicable to all offers of the University and contracts between the University and the Other Party under which the University supplies goods or services and/or carries out work, even if these goods, services and/or work are not specified in the contract. Departures from these General Conditions shall apply only if they are expressly agreed by the parties in writing.
2. All offers are without obligation, unless the offer expressly indicates otherwise.
3. Applicability of any purchase or other conditions of the Other Party is expressly rejected.
4. If and as soon as it is established that one or more of the provisions of these General Conditions is/are void or has/have been set aside, the remaining provisions of these terms and conditions shall remain in full force and effect and the University and the Other Party shall consult one another in order to agree new provisions to replace the ones that are void or have been set aside; as far as possible the object and effect of the provisions that are void or have been set aside shall be taken into consideration.
5. The failure by the University at any time to require performance of one or more of the provisions of a contract shall in no way whatsoever affect the rights of the University to demand performance by the Other Party at a later time.
6. The Other Party shall not, otherwise than for factoring purposes, assign or in any other way transfer rights and/or obligations under the contracts concluded between itself and the University, unless with the prior written consent of the University.

Commencement date; modification

1. Any contract between the University and the Other Party will enter into force at the time at which the copy signed by the Other Party is signed within a reasonable time by a person duly representing the University.
2. Modifications to a contract as referred to in subclause 1, with the exception of the General Terms and Conditions of Supply, are only valid if they have been accepted in writing by both parties.

Modification of the terms and conditions of supply

1. The University reserves the right to modify or add to these terms and conditions.
2. Modifications to these terms and conditions shall also apply in respect of contracts already concluded between the University and the Other Party, subject to a period of 30 days.
3. If the Other Party does not wish to accept a modification of these terms and conditions, he may terminate the contract up to 14 days after publication in the Netherlands Government Gazette as of that date on grounds connected with that modification, with the exception of the modification of clauses 3 and 4.

Termination

1. One party shall be entitled to terminate the contract if the other party, after a proper and detailed written notification of default, in which a reasonable period is set to remedy the defect, imputably fails to perform one or more essential obligations pursuant to the contract.
2. If by virtue of its nature and substance the contract is not terminated by the conferring of a specific benefit and has been concluded for an indefinite period, it may be terminated by either party after proper consultation, and stating the reasons, by means of written notice. If the parties have not agreed a period of notice, a reasonable period must be observed when notice is given. The University will in that case never be obliged to pay any compensation for giving notice.
3. If the Other Party fails to fulfil any obligation arising out of the contract, or fails to fulfil it properly or in good time, or in the event of the protective bankruptcy, bankruptcy petition, administration order or liquidation of goods of the Other Party, the University shall be entitled to terminate the contract immediately, in whole or in part, without notice of default or court order being required.
4. If at the time the contract is terminated the Other Party has already or should already have received benefits by way of implementation of the contract, the termination shall not affect these benefits and the corresponding payment obligations, unless the University is in default in respect of these benefits. Any amounts the University has invoiced or would have been able to invoice in connection with whatever has already been supplied or carried out before termination will remain due in full subject to the provisions of the previous sentence and will become immediately payable at the moment of termination.

Delivery dates and reservation of title and rights

1. All delivery dates quoted by the University are determined to the best of its ability on the basis of the information available at the time the contract was concluded and will as far as possible be observed. However, the University will not be in default by the mere fact of its exceeding a delivery date it has quoted. The University is not bound by any delivery date which can no longer be met on account of circumstances beyond its control. If any time limit threatens to be exceeded, the University and the Other Party shall consult one another as soon as possible.
2. All goods delivered or to be delivered to the Other Party remain the property of the University until all amounts the Other Party is liable to pay for the goods or services supplied or to be supplied or work carried out or to be carried out pursuant to the contract, plus legal interest and costs of recovery, have been paid in full.
3. Rights are at all times granted or, where appropriate, transferred to the Other Party under the condition that the Other Party pays the agreed compensation in full and in good time.
4. The risk of loss or damage to goods which are the subject of the contract pass to the Other Party the moment they are put at the actual disposal of the Other Party or a third party contracted by it.

Prices and payment

1. In so far as the contract in which concerns amounts to be paid periodically by the Other Party, the University shall be entitled to modify the agreed prices and rates by means of written notification to the Other Party, subject to a period of three months' notice.
2. The University is at all times entitled to modify the agreed prices and rates by means of written notification to the Other Party for benefits which according to the relevant timetable or the contract will be delivered at least three months after the date of notification.
3. All invoices shall be paid by the Other Party according to the payment conditions agreed and stated on the invoice. If there are no such conditions the Other Party shall pay within thirty days after the invoice date.
4. If the Other Party fails to pay the amounts due within the agreed time limit or the time limit determined under subclause 3 above, the Other Party shall be liable to pay legal interest on the amount outstanding, without notice of default being required.
5. If the Other Party fails to pay the debt after being given notice of default, the debt may be passed on to a third party for collection, in which case the Other Party shall, in addition to the total amount due (inclusive of legal interest), also be obliged to pay in full any costs incurred, whether with or without resort to the courts, in connection with recovery of the amount, and which will be fixed at no less than 15% of the total sum due.
6. All prices stated in any contract are exclusive of VAT and other charges imposed by or on behalf of the government, unless expressly stated otherwise. Nevertheless, all payments must be made inclusive of VAT and/or other charges.
7. Prices apply only to the goods, services and work specifically mentioned in the contract. Any additional goods or services supplied or work carried out shall be invoiced separately at the prices applying on the date they are supplied.
8. Payment must be made by transfer into a bank or giro account stated on the invoice or stated separately by the University in writing, payable to the University.

Complaints

1. In the event of visible defects the Other Party must complain within 8 days after delivery, failing which there shall be no further claim against the University.
2. Complaints in respect of hidden defects must be made in writing by means of a registered letter within 8 days after the defect has been discovered by the Other Party, or could or should reasonably have been discovered, if that would have been earlier. If this is not done, there shall be no further claim against the University.
3. If the complaint is justified, products or services supplied will be adapted or replaced, or compensation paid, after consultation.
4. A complaint shall not suspend the obligations of the Other Party.

Liability

1. Liability of the University is always excluded for indirect loss or damage, including consequential damage, loss of profits, loss of savings and loss or damage resulting from interruption of business.
2. Apart from the cases mentioned in this clause, the University accepts no liability whatsoever for loss or damage, irrespective of the ground on which any action for damages might be based.
3. The University accepts no responsibility or liability whatsoever in respect of the possible direct or indirect consequences of any software or hardware problems that might arise as a result of improper use of date fields or, in connection with the turn of the century, as a result of dating from the year 2000 onwards.
4. If and to the extent this is covered by its insurance, the University shall only accept liability for direct loss or damage suffered by the Other Party which results from an imputable failure in the performance of its obligations under the contract or a wrongful act, up to the amount of the payment to be made by this insurance.
5. If the insurer should for any reason fail to pay out, or if the liability for the loss or damage is not or not sufficiently covered by any insurance, the University shall only accept liability for the direct loss or damage suffered by the Other Party which results from an imputable failure

in the performance of its obligations under the contract or a wrongful act, up to the amount of the price the University is to charge the Other Party or the amount of the payment to be made by the insurance, if higher.

6. The Other Party shall indemnify and hold the University harmless against any claims from third parties in respect of the use by those third parties of goods, services and/or work supplied to them or otherwise placed on the market by the Other Party, which came into being wholly or partly on the basis of the goods, services and/or work supplied to the Other Party or otherwise placed on the market by the University.
7. Liability on the part of the University on account of an imputable failure in the performance of a contract shall arise only if the Other Party has immediately and duly notified the University of its default in writing, thereby setting a reasonable time limit within which to remedy the default, and the University remains imputably in default even after that time limit. The notice of default must contain such a detailed description of the default that the University is able to respond adequately.
8. The University shall not be liable if a default is caused by force majeure.
9. The restrictions stated in this clause shall not apply if the loss or damage is the consequence of the deliberate act or gross negligence of the University or its managerial staff.

Force majeure

1. "Force majeure" in these General Conditions means the circumstances which prevent performance of a contract by the University and are not imputable to the University. These include but are not limited to strikes and illness of staff and transport disruptions, whether occurring at the University or at its suppliers.
2. During force majeure delivery and other obligations of the University arising out of the contract are suspended. If the period in which the University is unable to perform an obligation as a result of force majeure lasts longer than two months, both parties shall then be authorized to dissolve the contract without judicial intervention and without this giving rise to any right to damages.
3. If the University has already partly fulfilled its obligations before the commencement of force majeure, or if it will only partly be able to fulfil its obligations as a result of the commencement of force majeure, it shall be entitled to invoice whatever has already been supplied or the part that can still be supplied separately and the Other Party shall be obliged to pay this invoice as if it concerned a separate contract.
4. The University shall also be entitled to rely on force majeure if the non-imputable circumstance which prevented performance of its obligation only commenced after it should have fulfilled its obligation.

Intellectual or industrial property rights; confidentiality

1. Unless expressly agreed otherwise, all intellectual or industrial property rights in all software, equipment or other materials such as analyses, designs, documentation, reports, and the preparatory material therefor and quotations developed or made available pursuant to the contract shall vest solely in the University or its licensors and, if it follows from the nature of the contract, the Other Party shall acquire only the non-exclusive rights of use.
2. The Other Party is aware that the software, equipment and other materials made available by the University may contain confidential information and business secrets of the University or its suppliers. The Other Party agrees, without prejudice to the provisions of clause 10.1, to keep the software, equipment and materials secret, not to disclose them or give the use of them to third parties and only to use them for the purpose for which they were made available to it. Third parties shall also include any person working in an organization of the Other Party or in an organization in which the Other Party has a significant shareholding, who does not of necessity have to use the software, equipment and/or other materials.
3. The Other Party is not permitted to remove or alter any indication of copyright, trade marks, trade names or other intellectual or industrial property rights from the software, equipment and/or other materials, including indications concerning their confidential nature and confidentiality.

Disputes and applicable law

1. All disputes which cannot be settled amicably by the parties shall be subject to arbitration, binding on both parties, in accordance with the rules of the Netherlands Arbitration Institute in Rotterdam. Consumers, however, are always given the option of recourse to the ordinary courts.
2. Contracts between the University and the Other Party are governed by Dutch law.

The Executive Board,
L.E.H. Vredevoogd,
Chair