

General Terms and Conditions of Service by LBEA BV

Article 1: Definitions

1. Phrases and terms applied in these General Terms and Conditions shall be employed as defined herein, unless specifically stipulated otherwise.

User: Lewandowski Belastingadvies en Administratiekantoor BV, or (when abbreviated) LBEA BV

Client: party interested in using or using services provided by LBEA BV

Agreement: agreement for the provision of services by LBEA BV

General terms and conditions of service provision: hereinafter referred to as "General Conditions"

Article 2: General Conditions

1. These General Conditions shall apply to every offer, tendering procedure, and written or oral agreement entered into by the User and Client, unless parties thereto explicitly waive the application thereof in writing.
2. These General Conditions shall further apply to all agreements entered into with the User, should performance thereunder require the involvement of third parties.
3. All reservations in these General Conditions shall equally serve and apply to all persons employed by or in any way associated with the Client.
4. Any exemptions from these General Conditions shall only apply if explicitly agreed in writing.
5. The application of any general terms or conditions of the Client shall hereby be excluded.
6. Should one or more provisions of these General Conditions be recognised as invalid, reasons for such condition notwithstanding, the remaining provisions of these General Conditions shall continue in full force and effect. Under such circumstances, the User and Client shall take joint action to introduce new provisions as substitutes for the invalid ones, in recognition of the purpose and/or meaning of original provisions.

Article 3: Offers

1. All offers shall be considered non-binding unless they comprise the date of their approval.
2. Offers submitted by the User shall remain valid for a period of 7 (seven) days unless otherwise agreed. The User shall be obliged to act under the offer submitted only if approved in writing by the other party within a term of 7 (seven) days unless otherwise agreed.
3. Prices quoted in aforementioned offers shall not include VAT or other official fees, or any costs or expenses arising thereunder.
4. Should offer approval differ in any way from the original proposal contained therein, the User shall not be bound by it – in which case the agreement shall not be delivered for reasons of the aforementioned discrepancy, unless the User decides otherwise.
5. The overall price offer shall not oblige the User to perform any part of any task in accordance with the respective part of the price quoted.
6. Offers shall not be automatically extended to include future orders unless the User decides otherwise.

Article 4: Fulfilment of the Agreement

1. The User shall perform all and any works as specified in the agreement concluded between Client and the User with due diligence, and to best professional standards.
2. While the User cannot guarantee the achievement of any legal result or effect expected, it shall make every reasonable effort (due diligence obligation) to achieve the legal result or effect expected.
3. Should the User fail to fulfill the agreement or fail fulfill the agreement by the date agreed for reasons not attributable to the User, including illness, all obligations shall be suspended until the moment of the User regaining capacity to perform under its obligations.
4. The User shall notify the Client immediately, should circumstances described under clause 3 hereto arise.
5. The User shall have the right to commission certain activities to be performed by third parties, should this be required for the due and proper performance hereunder.
6. The Client shall provide the User with accurate, complete and reliable data and information, directly or on the Client's behalf.
7. The User shall be obliged to (continue to) fulfill the order, if by the Client provided all data and information required in the form and manner duly recommended by the User.

8. Any supplementary costs arising as a result of the Client failing to provide information, the Client's untimely provision, or the Client's inappropriate provision of data and/or information required, whether by the Client or parties acting on its behalf, shall be duly covered by the Client.
9. The User shall not be held responsible for any damages arising from the use of inappropriate or incomplete data received from the Client, unless the User could have been reasonably expected to have knowledge of said inappropriateness or incompleteness of data.
10. Should parties agree that the agreement shall be delivered in stages, the User shall have the right to suspend the delivery of activities forming part of any subsequent works stage until the moment of the Client approving the results of the previous stage in writing.
11. Should the User or third parties engaged by the User for purposes of delivering under the agreement perform works on a site owned or specified by the Client, the Client shall secure free of charge access to premises required to deliver the subject matter of the agreement.
12. The Client shall duly secure the User against potential claims of third parties who may suffer damages as a result of fulfilling the agreement; the Client shall be responsible for any such damages.

Article 5: Amendments to Agreement Provisions

1. Should the need to modify or supplement works to be performed arise in the course of fulfilling the agreement to the end of due and proper delivery thereunder, parties shall adjust agreement provisions as required by a relevant date and upon joint consultation.
2. Should parties agree as to amendments and/or supplements to the agreement, such decision may impact the ultimate date of delivering the order. The User shall notify the Client of such circumstances as swiftly as reasonably possible.
3. Should aforementioned amendments and/or supplements to the agreement give rise to financial or quality-related consequences, the User shall duly notify the Client of such circumstances in advance.
4. Should a fixed fee have been agreed, the User shall determine the extent to which the aforementioned amendments and/or supplements to the agreement shall exceed the aforementioned fee as duly agreed.
5. As opposed to clause 3 herein, the User shall not be authorised to charge additional costs, should aforementioned amendments and/or supplements to the agreement arise from circumstances attributable to the User.

Article 6: Term of the Agreement; Date of Delivery

1. The agreement and between the User and Client shall be concluded for an indefinite period of time, unless the nature of the agreement stipulates otherwise, or unless parties hereto explicitly agree otherwise in writing.
2. Should dates for the delivery or performance of specific activities be agreed during the term of the agreement, the expiry of such dates shall not be considered an automatic delay. Should dates for the delivery or performance of aforementioned activities be exceeded, the Client shall take action by notifying the User of said delay in writing, concurrently specifying a reasonable date for delivering said activities.

Article 7: Fee

1. The User shall charge a fee payable by the Client for works performed to the benefit of the same, inclusive of expenses incurred in relation to the case (such as postal fees, bailiff expenses, travel and hotel accommodation expenses, etc.). The fee shall be calculated on the basis of rates agreed with the Client. Costs and expenses shall be charged on the basis of invoices submitted, or evidenced specification of aforementioned costs or expenses.
2. The fee shall be calculated on the basis of actual working hours or activities performed. The fee shall be charged in conformity to standard User hourly rates applicable throughout the term of works performance, unless another settlement format is separately agreed in writing.
3. Fees and/or potential expenses shall not include VAT. Depending on actual circumstances, VAT shall be duly added to net fee and/or expense amounts due.
4. In case of orders delivered over a term exceeding 4 (four) weeks, all amounts due shall be charged periodically.
5. The User shall be authorised to account for price increases, should fees rise due to inflation or general price increases during the period between offer submission and order delivery, or in the course of delivering hereunder.
6. The User shall further have the right to increase its fee should it transpire in the course of delivering under the agreement that the volume of works agreed or expected at the time of entering into the agreement had been duly underestimated for reasons not attributable to the User to an extent precluding reasonable expectations that the User will perform works as agreed for the fee as originally agreed. In case of any intention to increase the respective fee or rate(s), the User shall duly notify the Client, specifying the amounts to be charged and the date of aforementioned increases coming into force.
7. Costs of all works subject to an hourly fee shall be charged and submitted in 0.3 h (18 minute) units.

8. In emergency situations, or should the need or requirement arise for works to be performed outside regular business hours, the User shall be eligible to a temporary fee increase by 50% upon duly notifying the Client in advance.

Article 8: Payment

1. Payment shall be made by bank transfer within 14 days from the date of the invoice, in a form and manner duly specified by the User and in the cost/expense currency as declared. Contesting any costs/expenses declared shall not give rise to any suspension of the payment obligation.
2. If the payment term of 14 days is exceeded, the Client will legally be in default.. In such a case, the Client shall pay due interest of 1% per month (for each started month). Should statutory interest be higher, statutory interest shall prevail. Interest on the outstanding amount shall be calculated as of the moment when the Client is in default until the full amount due has been paid.
3. Should the Client be subject to liquidation, bankruptcy, or asset seizure, or should the Client suspend all payments, the User's claims against the Client shall be recognised as payable immediately.
4. Any payment(s) made by the Client shall be allocated in the following order: costs incurred by the User; outstanding interest; current interest and principal amount. The User shall have the right to refuse offer of payment (being in default) should the Client offer to allocate its payments differently. The User shall further have the right to refuse acceptance of the full amount, should such amount not cover current outstanding and/or current interest, and/or expenses incurred.

Article 9: Costs of Collection and/or Recovery

1. Should the Client fail to fulfill its obligation(s) or fail to fulfill its obligation on time, all justifiable costs and or expenses incurred in association with out-of-court receivables settlement shall be duly covered by the Client. Should the Client fail to make the related payment within the specified term of payment, it shall be subject to a due payable fine payable, said fine equivalent to 15% (fifteen percent) of the amount due, and no lower than EUR 178.50.
2. Should the User incur justifiable higher costs or expenses, such costs and/or expenses shall also be reimbursable.
3. The Client shall also cover any court fees and/or recovery costs or expenses.
4. The Client shall be obliged to pay any interest on any costs of recovery incurred.

Article 10: Audit; Complaints

1. Client shall file any complaints with the User with regard to works performance within 8 days as of the moment of detecting any defect, and in any case no later than within 30 days as of the moment of works closure. The aforementioned notification shall contain as detailed description of the defect as possible, allowing the User to respond appropriately.
2. Should the complaint be justified, the User shall duly perform as stipulated in the agreement, unless the Client concludes in the meanwhile that continued works are pointless. Should that be the case, the Client shall duly notify the User in writing.
3. Should continuing of works as originally agreed be deemed impossible or pointless, the User shall be held accountable only as stipulated by provisions of Article 14 hereto.

Article 11: Termination of the Agreement

1. Both parties shall have the right to terminate the agreement by registered mail or bailiff's delivery at any time.
2. Should the agreement be prematurely terminated by the Client, the User shall have the right to receive compensation for losses incurred in association with unused resources if evidenced as secured in conjunction with said loss, unless agreement termination is caused by circumstances and/or facts attributable to the User. Furthermore, the Client shall be obliged to pay amounts due for any works performed until premature agreement termination. Tentative results of works performed prior to the date of premature agreement termination shall be made available to the Client, at the User's discretion.
3. Should the agreement be terminated by the User, the User shall – in agreement with the Client – ascertain that any outstanding works be transferred for purposes of delivery to third parties, unless agreement termination is caused by circumstances and/or facts attributable to the Client.
4. Should works transfer involve any supplementary costs or expenses, they shall be duly covered by the Client. The Client shall be obliged to cover such costs and/or expenses on demand by the User, also upfront as an advance payment.

Article 12: Suspension and Termination

1. The User shall be authorised to suspend the performance of any obligations and/or to terminate the agreement, should the Client fail to fulfill its obligations stipulated in the agreement in whole or in part, or should – upon entering into the agreement – the User gain knowledge of circumstances justifying concern that the Client shall not fulfill its assigned obligations. Should concern arise that the Client may fail to fulfill or fulfill its assigned obligations adequately, such aforementioned suspension shall be allowable only to the extent justified by failure to perform under obligations assigned, or should the Client fail to provide a performance guarantee (bond) or provide an insufficient performance guarantee (bond) despite having been requested to provide such performance guarantee (bond) at the time of entering into the agreement or at a later date.

2. Furthermore, the User shall be authorised to terminate the agreement should circumstances preventing performance under assigned obligations or their performance to reasonable and applicable standards arise, or should other circumstances affecting justified expectations that the agreement shall be delivered under unchanged form arise.
3. Should this agreement be terminated, the User's claims against the Client shall be due immediately. Should the User suspend performance of its obligations, the User's rights arising from legal provisions and this agreement shall remain unaffected.
4. The User shall retain its eligibility to seek compensation.

Article 13: Return of Objects Provided for Use

1. Should the User provide the Client with any objects for use for the duration of the agreement, the Client shall be obliged to return them within 14 (fourteen) days as of order delivery, in their original condition, complete and undamaged. Should the Client fail to perform under the aforementioned obligation, it shall duly cover all and any related costs and/expenses.
2. Should the Client continue to fail to deliver under clause 1 hereto on demand, reasons for such failure notwithstanding, the User shall have the right to demand that the Client cover any related damages and/or expenses, costs of replacement included.

Article 14: Responsibility and its Restrictions

1. The User shall not be held responsible for losses incurred by the Client or by any third party, arising from inappropriate and/or incomplete information, or from the Client's actions or negligence.
2. Furthermore, the User shall not be held responsible for losses incurred by the Client, arising from actions or negligence by third parties in the course of performing their duties (including, but not limited to attorneys/ legal counsels, notaries, statutory auditors, tax advisors, etc.) and commissioned by the User on behalf of the Client.
3. Claims regarding damages incurred by the Client as a result of actions or negligence on behalf of the User shall be submitted thereto within a term of 3 days as of the moment of detecting the damage; failure to comply with the aforementioned requirement shall result in an expiry of rights to compensation.
4. The User's responsibility for professional error resulting in losses incurred by the Client shall be limited to compensation payable by the insurer in a given case. In all other cases, the User's responsibility for professional error shall be limited to the amount invoiced for services provided to the Client over the period of the previous 3 months.
5. The User shall never be held responsible for indirect losses, including, but not limited to secondary damage, loss of profit, lost savings, or damages incurred in conjunction with business downturn.

Article 15: Security and Protection Measures

1. The Client shall protect the User against any third-party claims in the field of intellectual property rights to materials and/or data provided by the Client and during the term of fulfilling the agreement.
2. Should the Client provide the User with data carriers, electronic files, or software, etc., the Client shall warrant that all such data carriers, electronic files, and/or software are free of viruses and any other defects.
3. The Client shall be obliged to protect the User against any third-party claims arising from or with regard to works performed by the User to the benefit of the Client.

The phrase "*third party(-ies)*" as employed in the previous sentence shall include the shareholders, management board, supervisory board members, and staff of the Client, as well as legal entities, enterprises, and other persons associated and non-associated with the Client's organisation.

Article 16: Force Majeure

1. Parties shall not be obliged to act under any obligation should that be impossible as a result of circumstances non-attributable to them, and shall not be obliged to meet responsibilities affecting them if not required to do so under the law, pursuant to legal activity, or in view of generally acceptable social interaction standards.
2. According to these General Conditions, the phrase "*force majeure*" shall – beyond any definitions stipulated under the law and jurisprudence – include any external circumstances, foreseeable and unforeseeable, non-attributable to the User and preventing it from delivering under obligations assigned. The phrase shall include strike at the User's enterprise.
3. The User shall also have the right to reference *force majeure*, should circumstances preventing it from (continued) performance under obligations assigned occur following the expiry of the date by which the User should have delivered under its obligations.
4. Parties shall have the right to suspend fulfilling their obligations as stipulated hereunder for the duration of *force majeure*. Should the related period extend beyond two months, each of the parties shall have the right to terminate this agreement with no obligation to pay compensation to the other party.
5. Should the User partly fulfill its obligations the period of the *force majeure* or should the User do so during a future period, and should separate value be assignable to the part of the obligations delivered or planned, the User shall be authorised to declare the costs and/or expenses of obligations delivered or planned as a separate amount. In such case, the Client shall be obliged to pay said amount as if under a separate agreement.

Article 17: Confidentiality

1. Both parties shall be obliged to consider all classified related information received from the other party or another source during the term of this agreement confidential. Information shall be considered classified if thus categorised by the other party, or should such status arise from the nature of related information.
2. Should the User – pursuant to legal provisions or court ruling – be obliged to disclose classified information to third parties as duly stipulated by the letter of law or by a competent court of law, and should the User concurrently be unable to reference statutory or competent court-issued right to refuse to give evidence, the User shall not be obliged to pay any related damages or compensation, whereas the other party shall not be authorised to terminate this agreement on grounds of any related losses or damages incurred. The aforementioned provision shall remain valid also in case of the User acting on its own behalf before a court of law.

Article 18: Intellectual Property Rights and Copyright

1. Without prejudice to any other provisions of these General Conditions, the User shall retain all rights and eligibility as duly stipulated under the Copyright Law.
2. All and any documents provided by the User, such as reports, advice, agreements, projects, software, etc., shall be intended exclusively for use by the Client, and shall not be replicated, made public, or disclosed to third parties without the User's explicit consent, unless the nature of delivered documents allows otherwise.
3. The User shall have the right to use knowledge gained in the course of performing works to other purposes, provided that such use does not entail disclosing confidential information owned by third parties.

Article 19: Prohibition to Employ Staff of the Other Party

1. Throughout the term of this agreement and for a period of one year upon its expiry, the Client shall not in any form – without the User's former explicit consent in writing – employ or otherwise engage, directly or indirectly, the User's staff or the staff of enterprises engaged by the User for purposes of delivering under this agreement, and/or participating in the delivery thereunder, currently or in the past.
2. The Client shall pay the User an amount equivalent to 3 (three) monthly salaries after taxes (gross) of the respective employee for violating the ban duly stipulated in clause 1 hereto.

Article 20: Disputes

1. Any disputes shall be examined exclusively by a competent court for the User's registered business address. The User shall have the right to file disputes for resolution before a court recognised as competent under the letter of law.
2. Parties shall refer to a court of law only upon having exhausted all other measures of dispute resolution, and joint consultation.

Article 21: Applicable Law

1. The law of the Kingdom of the Netherlands shall apply to all and any agreements concluded by the User and the Client.

Article 22: Amendment to and Interpretation of Agreement Provisions

1. Should the need arise to clarify the content and/or the purpose of these General Conditions, their Dutch language version shall always prevail.
2. Parties shall be obliged to apply the General Conditions version applicable on the date of concluding the agreement.

Amsterdam, January 1st 2014