

General conditions

Article 1

Definitions

Within these general conditions the following terms are being used with their given meanings:

Taita: - TAITA Training and Advice B.V., registered at the Chamber of Commerce under number 17152898
 - TAITA Educa Simula B.V., acting under the name of "Educa Simula" and registered at the Chamber of Commerce under number 17152899

Client: TAITA's other party, acting while exercising a profession or prosecuting a trade, or acting as a person;

Parties: TAITA and Client

Agreement: the agreement between TAITA on one side and Client on the other side.

Article 2

Applicability of the general conditions.

1. The general conditions apply to and are a part of all offers, quotations, agreements and other legal actions, be it oral, written, electronically or in any other form, concerning delivery by TAITA of products and/or services or in behalf of Client.
2. The general conditions are also applicable to products and/or services TAITA has gained - partially or entirely- from a third party and, altered or not, passed on to Client, as well as to products and/or services that, by order of TAITA and within the framework of execution of the offer, quotation, agreement or other legal actions, are being delivered to Client by a third party
3. Variations on these general conditions are only valid if agreed explicitly and in writing by TAITA and Client.
4. TAITA explicitly rejects applicability of possible general (purchase)conditions that Client may have.
5. If and when any stipulation of these general conditions will be declared void or annulled, the remaining stipulations will stay into force undiminishedly. TAITA and Client will deliberate a new stipulation to replace the void/annulled stipulation, taking into consideration as far as possible the tendency of the void/annulled stipulation.

Article 3

Nature and range of the assignment, quotation

1. All offers and quotations, in any form whatsoever, are not binding, unless explicitly indicated otherwise.
2. The nature and range of the assignment is determined by the description of activities as laid down in the quotation. Changes, supplements or extensions, agreed upon later in time, are presumed to be part of the assignment.
3. Acceptance of the quotation and of the changes, supplements and extensions, takes place through written consent of Client.
4. A quotation is valid during the period of one month, calculated from the day of forwarding.

Article 4

Acceptance of assignments and manner of execution.

Generally

1. An assignment is always accepted under the condition that TAITA has the right to return the assignment within five workdays of seeing into the contents as delivered by Client and meant for processing within the assignment, without being obligated to pay any form of compensation.
2. Execution of the assignment will start as soon as Client has provided TAITA with the data needed. If delivery of the data needed is delayed, the term as mentioned in the preceding article will be prolonged accordingly.
3. TAITA is allowed to have assignments given to TAITA executed partially or entirely by a third party.
4. Client will at all times provide TAITA fully and in time with data as requested by TAITA and with all other information, necessary for delivery of the products and/or services.
5. If and when Client provides TAITA with data that can be referred to as personal data, Client guarantees that, as far as these data are concerned, the legislation protecting privacy current at the moment of issuing is met and that use and adaptation by TAITA is also permitted. Client safeguards TAITA against possible claims from a third party in this light.

Courses

6. Courses can be given within an in advance agreed upon period in one or more parts of days. If the Client interrupts a course halfway, full payment is due. If the Client cancels a course up to thirty days before its start, no payment is due. If cancelled up until fifteen days before the course's beginning, 50% of the full payment is due. If a course is cancelled within fifteen days before it's beginning, full payment is due.
7. Teaching- or (base)picture-material given out by TAITA within the framework of a practice course can only be used within the framework of that concerning course. The Client can only use this material after the course has ended in case TAITA has previously given its written consent.
8. TAITA decides on the number of participants within each course.
9. Client guarantees that the information given in article 4.4 is correct and complete, and also that he is allowed to provide TAITA with this information in behalf of the delivery of products and/or services. Client safeguards TAITA against possible claims of a third party in this light.

Article 5

Postponement and dissolution

1. TAITA is entitled to postpone honouring its obligations or to dissolve the agreement in case:
 - Client does not or does not fully meet the obligations originating from the agreement;
 - circumstances TAITA has taken cognizance of after closing the agreement give it just cause to fear Client will not meet his obligations. In case just cause exists that Client will only honour his obligations partially or not properly, postponement is only allowed as far as justified by the shortcoming.
 - Client was asked to guarantee fulfilment of his obligations originating from the agreement at the closing of the agreement and this security does not come forth or proves to be insufficient. As soon as security is given, the power of postponement ends, unless this fulfilment was delayed unreasonably.
2. Furthermore TAITA is entitled to (have) the agreement dissolved in case circumstances arise of a magnitude that honouring the agreement becomes impossible, or by measures of reasonableness and fairness can no longer be asked or in case other circumstances arise of a magnitude that unchanged maintaining of the agreement in all fairness can not be expected.

3. TAITA at any time preserves the right to ask for security for payment cq payment in advance. Honouring of its obligations can be postponed until the wanted security is provided. In case the wanted security is not provided within ten days, TAITA is entitled to dissolve the agreement. In case of postponement and/or dissolution of the agreement TAITA keeps the right of payment for the products delivered, services rendered and tasks performed until that moment.
4. In case of dissolution of the agreement, claims TAITA has on Client will be claimable immediately. In case TAITA postpones the honouring of the agreement, it will retain its claims originating from the law and the agreement.

Article 6

Intellectual property and copyright.

1. All rights of intellectual and industrial property concerning all matters and or software, hardware or other materials developed or made available in accordance with the Agreement, remain with TAITA or its licensors exclusively. Client will receive users rights and competences only, as explicitly granted within these conditions or otherwise. Client will not multiply or copy software or other materials in any way.
2. Client is aware that the software that is made available contains confidential information and company secrets of TAITA and/or its licensors. Client therefore pledges himself to secrecy and to not revealing or giving into use the information concerned to a third party and to only use the information for the purpose it was made available for. Before mentioned third party also includes any person employed by Client, who does not necessarily have to use the software as mentioned.
3. TAITA and Client will make further arrangements concerning the way in which authorisation for access and use will be given to persons employed by or students enlisted with Client, in order to prevent use by a third party, by more or other students than agreed upon and private-use.
4. Client is not allowed to remove or change any indication concerning copyright, trademark or trade name or other rights of intellectual or industrial property in matters and/or software, hardware or materials, explicitly including possible indications concerning the confidential nature and secrecy of these matters and/or software.
5. TAITA is permitted to take technical measures to protect its software. In case TAITA has secured its software by means of technical protection, Client -his employees or students included- is not allowed to remove this security, or to evade this security in any other way. As far as use of software is made possible through a server provided by TAITA, Client -his employees or students included- is accordingly not allowed to (try to) enter this server (hacking).
6. Any design, text, software or other material or (electronical) file developed by TAITA following this agreement, remains property of TAITA, in spite of being handed to Client or a third party, unless explicitly agreed upon differently.
7. TAITA retains the right to use the knowledge, possibly gained while executing its work for Client, for other purposes, as long as no confidential information will be revealed to a third party in the process.

Article 7

Liability.

1. TAITA is liable only for direct damage that is a direct and demonstrable consequence of any accountable shortcoming in fulfilment on TAITA's part. The extent of the liability is limited to maximally the amount of the bill, VAT excluded, for that assignment.
2. Direct damages only include the expenses reasonably made by Client to repair or resolve TAITA's shortcoming, in order to make TAITA's product fulfil the assignment, as well as the reasonable costs of preventing or limiting such damages.
3. TAITA is excluded from any liability for indirect damages, including, however not exclusively, consequential damages, loss of profit or sales.

Article 8

Delivery

1. TAITA will indicate time of delivery as precise as possible, however without obligation. In case of accountable exceeding of the promised term by more than ten working days, Client has the right to dissolve the agreement. In that case TAITA is not obligated to pay any form of compensation.
2. Time of delivery is considered to be time of sending by regular mail, by facsimile, by e-mail, by courier or by a person assigned by TAITA.
3. In case Client withdraws an assignment after granting, due to other reasons than force majeure, Client is obligated to compensate for the part of the assignment already executed at that time.
4. Complaints about shortcomings in products delivered or services rendered, should be forwarded to TAITA within ten working days after delivery. Obligation of payment is not postponed when a complaint is lodged.
5. In case TAITA judges a complaint to be justified, it will -as it chooses- correct or replace the product, or reduce its price.

Article 9

Force majeure

1. Force majeure is considered to be any circumstance, because of which Client can not, in all reasonability, expect honouring of any obligation, not to be foreseen at the moment of closing the agreement. Force majeure includes, but does not exclusively consists of, illness, strike, lock out of workmen, war, danger of war, riot, possibilities of transport, fire and other severe disturbances occurring at TAITA or its suppliers.
2. In case of force majeure, parties' obligations will be mutually suspended. In case of a prolonged period of force majeure because of which honouring can, in all reasonability, be no longer expected, both parties can dissolve the agreement for the future, by means of a simple written statement, without parties being obligated to pay any form of mutual compensation. In case TAITA has to stop further execution due to force majeure, it retains the right to payment for products delivered, services rendered and proceedings executed until that time.

Article 10

Guarantees

1. TAITA safeguards Client against any legal claims based upon the allegation that matters and/or software, hardware or materials developed by TAITA itself, breach any right of intellectual or industrial property current in the Netherlands. This guarantee is given under the explicit condition that Client will inform TAITA about the existence and contents of the legal claim without delay and will have the claim settled entirely by TAITA itself.

2. When necessary, Client will give TAITA power of attorney, information and cooperation, to, on behalf of Client, defend itself against these legal claims.
3. The obligation of safeguarding will be void in case the breach concerned originates in alterations in matters and/or software, hardware or materials made by Client or when Client had a third party make these alterations for him.

Article 11

Payment

1. Payment -without reduction or appeal to any form of compensation- is due at the latest within 30 days after the date of the invoice. Client will take into account the number of days needed for payment to actually reach TAITA.
2. In case Client does not meet the 30 day term of payment Client will be in neglect by right. An interest of 15 % per year will then be due, unless the law dictates a higher percentage of profit, in which case this percentage will be due. Profits over the payments due will be calculated from the moment the neglect starts until the moment payment is made in full.
3. Payments made by Client will firstly be regarded as payment for all due costs, secondly for due profits and then for the longest outstanding invoice, even if Client states payment regards an invoice from a later date.
4. Any objections Client might have against an invoice, have to be forwarded, specified and in writing, to TAITA within the term of payment as described in article 8.1. Without such an objection Client no longer has the right to object against the extent of the payment due.
5. In case of Client's liquidation, bankruptcy, seizure or letter of licence, any claims TAITA has on Client will be claimable immediately.

Article 12

Collecting-charges

1. In case Client fails or neglects to honour his obligations (in time), all reasonable costs made for obtaining satisfaction outside a court of law will be charged to Client. In case of a money claim, Client will owe collecting-charges in any case. Collecting-charges are calculated according to the collecting rate as advised in collecting cases by the Dutch "Orde van Advocaten" (Order of barristers), described in the report "Voor-Werk II".
2. In case TAITA has higher collecting-charges, reasonably necessary, these costs can also be considered for compensation.
3. Client will also owe any possible and reasonable legal- and execution costs.

Article 13

Reservation of property

1. All matters and/or software, including possible designs, software, (electronical) files and so on, remain property of TAITA until Client has honoured all obligations originating from all agreements with TAITA.
2. Client is not allowed to mortgage any matter and/or software included within the reservation of property in any way.
3. In case a third party seizes matters and/or software included within the right of property, or intends to establish or to apply any rights on these matters and/or software, Client is obligated to inform TAITA as soon as is reasonably possible.
4. Matters and/or software delivered by TAITA, that are included within the reservation of property in accordance with article 13.1, can only be resold within the framework of normal management and can never be used as any form of payment.
5. In case TAITA intends to exercise its rights of property as described within this article, Client hereby already gives unconditional and non-revocable permission to TAITA, or a third party to be appointed by TAITA, to enter all places where TAITA's properties can be found and to take these matters and/or software back.

Article 14

Revision of the general conditions

1. Revision of these general conditions by TAITA is possible. The date of coming into force will be stated when the conditions are announced cq. registered.
2. From the day of coming into force, the revised conditions will be applicable to quotations that have not yet been accepted.

Article 15

Final stipulations

1. All agreements with TAITA, their explanation and execution will be governed by Dutch law.
2. All disputes concerning realization, explanation or execution of agreements with TAITA will be settled in the appropriate court of law in the Netherlands.
3. In case a dispute arises about realization, explanation, execution or not correctly or timely honouring an agreement or other legal relationship between parties, or in case a party thinks such a dispute exists, parties are obligated to reach an agreement by means of negotiations, before presenting the dispute to a civil judge.
4. With mutual agreement, parties can decide upon arbitration in the Netherlands, contrary to the stipulations described in article 10.2.

Thus drawn up in Son, the Netherlands, 2004.