



General Terms and Conditions of the Elsman Group

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DEFINITIONS

Article 1

For the purposes of these terms and conditions the following words shall bear the meanings assigned to them:

1. Supplier: the private limited liability company Elsman Group B.V., established and having its registered office in Nieuwkuijk, and/or a company or undertaking associated with the same, which concludes an agreement with or accepts a commission from the Client.
2. Client: any natural person or legal entity that makes use of the Supplier's services, work, quotations or supplies.
3. Elsman Group: Elsman Group B.V. and all companies and undertakings associated with it.

APPLICABILITY

Article 2

1. Unless agreed upon otherwise in writing, these general conditions apply to all work activities, services, tenders, supplies and agreements by or with the Elsman Group and in particular provided by the Supplier.
2. The Supplier expressly rejects any other terms and conditions.
3. In the event of conflict between the present general terms and conditions and the terms and conditions of the Client, including conditions of purchase, these general terms and conditions shall apply exclusively, unless agreed expressly otherwise and confirmed in writing by the Supplier.

QUOTATIONS

Article 3

1. Quotations in any form whatsoever, and publications including in print, are entirely free of obligation. Oral undertakings will not apply to the Supplier, unless the Supplier confirms these in writing.
2. The stated prices are exclusive of taxes and levies, unless expressly stated otherwise.
3. The quotation is based on the information provided by the Client. Technical data (measurements, weights, capacities etc.) appearing in any indications as customary in the Netherlands are provided in good faith. These are free of obligation and are deemed to be approximate, unless stated otherwise.
4. The Supplier retains the copyright to images, drawings, sketches and tenders provided with quotations. Such documents remain the property of the Supplier, and must not be copied, shown to third parties or disclosed in any other manner without express permission.
5. It is forbidden to make detailed drawings available to third parties.

CONCLUSION OF THE AGREEMENT

Article 4

1. An agreement is only deemed to have been concluded once the Supplier has confirmed the same. An agreement will only be concluded with the Supplier. Any additional agreements or amendments made later on will only be valid if the Supplier has confirmed these writing and the Client has not made any written objection to the same within 3 (three) days.
2. The date on which the Supplier sends confirmation shall constitute the valid date on which the agreement is concluded.

3. In the absence of written confirmation, the agreement shall be deemed to have been concluded under the terms of the quotation, if and when a start is made on implementing the agreement, including any preparatory and preliminary measures.
4. The Supplier is at all times authorised to request a written order confirmation from the Client before starting work on implementing the agreement. If after the start of implementation the price agreed for the services or the price deemed to have been agreed pursuant to the provisions of Article 5 cannot be demonstrated for either the whole or for a certain unit, the binding price shall be the price that the Supplier usually stipulates for comparable objects making use of the same means at the time that the agreement was concluded.
5. Agreements with or notifications from subordinate members of our staff will not bind the Supplier, insofar as not confirmed in writing. Within this context, all employees and assistants that do not hold a procuration shall be regarded as subordinate staff members.

WORK/EXECUTION OF THE COMMISSION

Article 5

1. The website www.Elsman.eu gives an overview of the services and work that the Elsmann Group provides. This list is not exhaustive. If the Elsmann Group and in particular the Supplier carries out work/services or delivers supplies or performs activities that are not covered by the work described on this website then these terms and conditions shall also apply to those activities/supplies/services.
2. The Client is required to provide the Supplier with access to all data and documents in the requested form and manner that the Supplier considers it needs for the correct execution of the commission granted to the Supplier. Furthermore the Client shall inform the Supplier of any events or circumstances that could be significant for the implementation of the commission. This also applies to events or circumstances that become known following commencement of the work.
3. The Client is responsible for the correctness, completeness and reliability of the data and documents provided to the Supplier. The Client shall bear the risk for data and documents originating from third parties on the Client's side.
4. The Client is furthermore required to ensure that all employees from the Client's own organisation and third parties involved in implementing the order from the Client's side are available to the Supplier in due time and are able to provide satisfactory cooperation as required.
5. Additional costs and fees arising from delay in implementing the commission due to failure to make available requested data and documents or not making them available on time or in a proper manner, as well as failure to provide sufficient cooperation, shall be for the Client's account.
6. The Supplier will determine the manner in which the commission is to be implemented and the persons who are to implement it. The Supplier may change the composition of the team of advisers or employees if it believes this to be necessary for the correct execution of the commission. Such a change can only be made at the request of the Client if and insofar the Supplier is of the view that the desired modification will not negatively impact the quality and/or continuity of the implementation.
7. The Supplier is free to implement granted commissions by engaging auxiliary personnel or third parties as the case may be under the Supplier's responsibility. The Supplier shall select third parties it engages if possible in consultation with the Client and with due observance of the necessary caution.
8. Commissions that are placed with the Supplier will only be executed on behalf of the Client. Third parties cannot derive any rights from the work performed.
9. If and for as long as lateness or unsatisfactory availability of information and/or failure by Client's personnel to provide necessary cooperation make it necessary, the Supplier will be authorised to suspend all its work for the Client's account, and the costs of the suspension shall be borne by the Client. If the Client fails to provide information requested by the Supplier and/or to ensure cooperation of its personnel within fourteen days after receiving notice of default from the Supplier,

then the Supplier will be authorised to terminate the agreement prematurely.

10. The work regarding the commission will be performed at the Client's or Supplier's offices or another suitable location, decided in consultation.
11. If the Supplier is instructed to execute a commission or part of a commission in cooperation with other research offices, consultancies or other experts, the Client shall determine, after consulting all those involved, who is to be responsible for leading and coordinating the work and shall specify each party's role.
12. The leadership and coordination referred to in paragraph 1 require at least that the coordinator shall draw up a timetable for the implementation of the commission meant in paragraph 1 on time in consultation with the other parties involved and that he - in the case of exceeding the time limit or other circumstances that could lead to delay or damage - immediately consults with them and provides all the parties involved in the consultation with a written report thereof.
13. If the Supplier receives a commission that involves work in another professional area than its own, it is permitted to engage other experts for this purpose after informing the Client of those experts.

PRICES

Article 6

1. The agreed prices are based on the price basis of the materials, transportation costs, wages, tax costs and other price-determining factors in effect on the day that the agreement was concluded. The amounts owed may in the case of longer-term commissions be reviewed from time to time on the basis of changes in wages and other price-determining factors. Changes in rates on this basis will be notified to the Client in writing. An indication by the Supplier as regards the total expected time required is not binding.
2. The fees will be decided when the agreement/commission is concluded. The Supplier will under no circumstances accept commissions/agreements on a "no cure, no pay" basis.
3. If the services deviate from the original commission with the approval of the

Supplier necessary consequence of circumstances then the deviating work will be charged to the Client in accordance with the prices in force at the time the work was carried out.

4. Unless agreed otherwise in advance the following costs will be payable over and above the fees:
 - the adviser's actual travel and hotel expenses incurred for the commission;
 - the costs of copies and reproductions;
 - costs due to third parties necessarily incurred for the purpose of the commission.

COMMISSION DURATION

Article 7

1. Any time limits stated by the Supplier in tenders, confirmations or otherwise are approximations only. The Client will not be entitled to compensation if a time limit is exceeded – even after notice of default – or if a commission/agreement is cancelled.
2. The agreement will be for an unlimited duration, unless it follows from the content, type or tenor of the commission that this is for a definite duration.
3. If the agreement between the Client and the Supplier stipulates that the Supplier shall reserve a number of hours or work units then the agreement will end at the time that the reserved hours or work units have been used up, in which case the Supplier's records shall be considered conclusive evidence in all cases.
4. An agreement concluded for a definite duration and/or for a definite number of hours will in all cases continue under the same terms and conditions as set out in the agreement if it is not terminated.
5. It is only possible to postpone the original starting date of a commission at the Client's request where the Supplier has reserved capacity if the capacity reserved for the commission can be deployed elsewhere instead. In the event that the Client nevertheless requests or achieves such postponement, the Client will be liable to pay the agreed fee for the unused reserved capacity.

6. In the event that circumstances arise during the execution of a commission that hinder or threaten to hinder proper execution, suitable measures will be agreed in mutual consultation in order to continue undisturbed. If modifications to the commission result in an extension and/or change to the work to be performed then the resulting additional costs shall be for the Client's account.
7. The Client accepts that the scheduling of the commission can be affected if the parties agree in the interim or if it appears necessary to the Supplier in the interim to extend or modify the approach, method or scope of the commission and/or the work arising therefrom.

CONSEQUENCES OF HALTING THE COMMISSION

Article 8

1. The Client may require the Supplier to halt its activities.
The Client is required to notify the Supplier of this in writing.
2. Where work on the commission is halted, the Client is required to compensate the Supplier for:
 - fees for the work done to date;
 - incurred costs, including for research;
 - any costs already incurred by the Supplier in fulfilling obligations necessarily undertaken towards third parties for the completion of the commission.Furthermore, the Supplier is authorised to claim compensation for direct damages, suffered as a result of this cessation of work, from the Client, other than in the case of force majeure.
3. If the commission is continued at a later date, the additional activities that ensue for the Supplier from restarting activities, shall be paid for by the Client on the basis of time spent, expenses incurred and the costs of research.

The Client and the Supplier shall enter into consultations to determine whether the provisions governing the commission have to be adjusted to meet the new situation.
4. In the event of interruption exceeding two years, each of the parties is entitled to terminate the commission without the

parties being reciprocally bound to any further payment than that stated in paragraph 2 of this article.

PREMATURE TERMINATION OF THE COMMISSION

Article 9

1. The commission may be terminated prematurely by the Client. The Client shall in this case fully respect the copyright of the Supplier.
2. In the case of termination of the commission as meant in paragraph 1, the Client shall be required to recompense the Supplier for:
 - fees for the work done to date;
 - incurred costs, including for research;
 - any costs already incurred by the Supplier in fulfilling obligations necessarily undertaken towards third parties for the completion of the commission.Furthermore the Client shall pay 10% of the remaining part of the fees and research costs which the Client would owe to the Supplier if the work commissioned were fully completed.
3. The Supplier may cancel the commission in the event of force majeure or with the approval of the Client or in the event of attributable failure by the Client. The Supplier is obliged to do all that which, given the circumstances, could be reasonably expected from the Supplier given the consequences that could arise for the Client due to cancellation.

The Client is required to compensate the Supplier for:

- fees for the work done to date;
 - incurred costs, including for research;
 - any costs already incurred by the Supplier in fulfilling obligations necessarily undertaken towards third parties for the completion of the commission.
4. Where the commission is terminated by the Supplier on the grounds of attributable failure by the Client – including such conduct on the part of the Client that the Supplier cannot reasonably be expected to further execute the commission – the Supplier is moreover entitled to claim the direct losses arising therefrom from the Client.

this article will come into effect automatically without any requirement for further explanation.

FORCE MAJEURE

Article 10

1. In these general terms and conditions, under *force majeure* is understood in general as regards execution of the commission/agreement any circumstances that make it impossible in good faith and reasonableness to require compliance with this commission/agreement or part thereof. Force majeure will in any case be considered to mean: failure for any reason whatsoever of our suppliers to make deliveries, strikes, lock-outs, mechanical breakdowns, disruption to energy supplies, government measures and their consequences, or loss or damage during transport.
2. If a situation of force majeure arises, the Supplier shall inform the Client stating the reason and the expected duration of the force majeure situation. The time limit will be extended by the duration of the delay due to force majeure. The Supplier is entitled – at its discretion – in the event of force majeure to cancel execution of the commission in whole or in part without being required to pay any compensation.

PAYMENT

Article 11

1. Any costs relating to payment, including exchange and bank costs are for the Client's account.
2. If payment has not been made within 14 days after the invoice date, the Client shall be deemed to be automatically in default and the Supplier will be entitled to charge the Client 1 per cent interest or the legal interest rate (whichever is higher) on the invoice amount for each period of 14 days or part thereof that the Client fails to make the payment due pursuant to this article following the said term of 30 days without the Supplier having to give notice of default, subject to its right to suspend work or to request advance payment for work still to be carried out in the event of delayed payment.
3. Deviating payment deadlines can be agreed in writing, but if these deadlines are exceeded the provisions of paragraph 2 in

4. All invoice payments shall be made without any deduction, settlement of debts or discount. The Client's obligation to pay does not depend on the outcome of the commission.
5. Complaints do not give the Client the right to refuse, postpone or set off payment.
6. If the Supplier deems it necessary to engage third parties to collect its claims in the event of late payment, the costs involved will be entirely for the Client's account. The Supplier can choose to charge the Client for the actual costs the Supplier has been charged, or for an amount equal to 15 per cent calculated on the amount due (principal and late payment interest), increased by VAT.
7. The Supplier retains the right to demand security for timely payment as regards work already and still to be done.
8. The Supplier is entitled – if it considers there are grounds for this – to suspend or not to execute all granted or agreed work for as long as the Client does not post adequate security for payment.
9. If a commission has been awarded jointly, the principals are jointly and severally liable for payment of the invoice amounts due.

OBLIGATION TO EMPLOY BEST EFFORTS

Article 12

1. The Supplier shall make every effort to the best of its knowledge and abilities and in accordance with professional principles to deploy the available knowledge, experience and working capacities in order to execute the commission, but is not obliged to achieve a specific result.

OWNERSHIP AND USE OF DOCUMENTS

Article 13

1. The Supplier retains copyright to all documents and data it supplies. These remain its property and must be returned to it immediately on demand. Subject to the foregoing provisions, the Supplier is entitled to retain anything it has received from the Client in the context of the agreement

- concluded with the Client until it has been paid in full.
2. The Client is responsible for ensuring that documents and data are not copied or imitated and/or provided or disclosed to third parties without the Supplier's written permission and without paying the Supplier until complete handover has taken place.
 3. All rights or claims to rights, in particular claims to (grant of) copyright, plant breeders rights, design rights, trademark and patent rights will revert to the Supplier.
 4. Unless otherwise agreed, reports, drawings and other physical objects resulting from the granted work will remain the Supplier's property.
 5. The Client may only publish issued reports verbatim in their entirety and with the written consent of the Supplier.
 6. Publication in any other form is only permitted with the written consent of the Supplier. Publication is also defined as disclosure to third parties.
 7. It is only permitted to use the results of the commission – also in the case of published reports – for the purposes of filing claims, conducting legal proceedings and for advertising purposes or to use the Supplier's name in any connection whatsoever after the Supplier has given separate written consent.

LIABILITY

Article 14

1. If the Client demonstrates that it has suffered damage on account of an error by the Supplier that would have been avoided if the Supplier had acted with due care, the Supplier shall only be liable for the direct damage incurred by the Client as a result thereof, unless there is intent or comparable gross negligence involved. Supplier's liability for indirect loss, including consequential loss, loss of profits, lost savings and loss caused by interruption of operations is excluded.
2. The Supplier is not liable for failures on the part of persons employed by the Supplier including both natural persons or legal entities, whose services the Supplier uses when executing a commission/agreement.

3. The Supplier is not liable for damage caused by faulty functioning of equipment, software, databases, registers or other items used to execute the commission.
4. The Supplier is not liable for damage arising from acts or omissions of the Client, contractors or third party suppliers in conflict with measures directly or indirectly relating to the commission/agreement.
5. The Supplier does not bear any liability for any goods which it merely passes on from third party suppliers. The third party supplier will indemnify the Supplier as regards possible claims by the Client in this regard.
6. The total damage that the Supplier is obliged to compensate as regards a commission/agreement will in all cases be limited to 10 per cent of the amount that the Supplier is entitled to as fees or payment for this commission or agreement.
7. The Client shall indemnify the Supplier against any claims that third parties may enforce against the Supplier.
8. If the Client transfers the risks associated with any commission/agreement by means of insurance the Client is obliged to indemnify the Supplier against the exercise of any right of recourse on the part of the insurer.
9. Any liability or rights of action and other authorities of the Client on whatever basis as regards the Supplier in connection with the work carried out by the Supplier shall in every case cease to apply one year after the time when the Client became aware or should reasonably have become aware of the action causing the damage.

COMPLAINTS

Article 15

1. Complaints must be made in writing within four days of receipt of the goods or implementation of services. If the other party fails to properly inspect supplied goods or services for soundness within four days of receipt, it will be deemed to have approved the delivery or performance of services.
2. Complaints will only be handled if the goods in question are still in the same condition as when delivered. The other

party will be required to prove that this is the case in the event of doubt.

3. If the Supplier considers a complaint to be well-founded, the Supplier can – at its discretion – repair, replace or compensate the other party for the goods that are subject to complaint, to the exclusion of any other right of the other party to compensation.
4. A complaint does not constitute grounds for suspending payment obligations.

CANCELLATION

Article 16

1. In the case that the Client does not, or does not completely, or does not in a timely manner, comply with any obligation following on from a commission/agreement, or if a (prejudgment) attachment is made against the Client, or if an application is made or granted for insolvency, suspension of payments or debt remission regarding the Client and/or if the Client shuts down or liquidates its business, the Client shall be deemed automatically in default and the Supplier shall be entitled to cancel the commission or to declare the agreement rescinded in whole or in part without any requirement to issue a summons, notice of default or recourse to a court of law. The foregoing without the Supplier being liable for any compensation and without prejudice to the Supplier's further rights.
2. The Client will in this case be obliged to indemnify the Supplier in full, which includes the profit which the Supplier would have earned.
3. The provisions of paragraphs 1 and 2 do not affect the right of the Supplier to suspend execution of the commission/agreement and to claim immediate payment in full for everything that is or would be due from the Client as a consequence of the commission/agreement.
4. If the Client is a natural person, the commission will not lapse as a consequence of the decease of the Client. The Client's rights and obligations will be transferred to his or her assignees.

CONFIDENTIALITY

Article 17

1. Unless agreed otherwise when the commission is granted, the Supplier undertakes not to disclose the Client's name and the new specific knowledge and data in connection with the commission acquired within the area of the commission for a period of three months after the date of the final invoice, unless and insofar as this concerns calculation methods, software and experimental working methods. In the case of tests, analyses, measurements or literature research, the non-disclosure obligation does not extend further than the fact that the test, analysis, measurement or literature research was carried out and the result of the test, analysis or measurement that was carried out.
2. A non-disclosure period of six months applies to Client data not in the public domain which the Supplier gains knowledge of when executing the commission and which the Client has not expressly identified as secret. The Client can extend this time limit by means of a separate written agreement if it so wishes.
3. If as a consequence of the Client making known results of research misunderstandings arise, this frees the Supplier from the non-disclosure obligation to the extent that it reasonably needs to explain the results to third parties.
4. The non-disclosure obligation does not apply to the extent that this conflicts with the Supplier's statutory obligations.
5. The Client's consent is required for engaging third parties other than the Supplier when executing the commission if and insofar unforeseen risks would arise as regards secrecy.

APPLICABLE LAW AND JURISDICTION

Article 18

1. Dutch law applies exclusively to all tenders, commissions or agreements under whatever name, and to their execution.
2. In the unhoped-for event that a dispute arises only the District Court of Breda will be competent according to the rules of absolute competence, unless the Supplier prefers to deal with matters according to the usual rules of competence.

MISCELLANEOUS

Article 19

1. In the event that one or more of the provisions in this agreement are declared null and void, or set aside or turn out to be null and void, then the remainder of the agreement shall continue to apply.
2. In the event that the situation referred to in the previous paragraph should arise the invalid provision(s) shall be replaced by provision(s) resembling the invalid provision(s) as closely as possible as regard content, scope and consequences, without being null and void.