



General

- These General Terms and Conditions are hereafter referred to as "General Terms".
- The party that enters into an agreement with Compules BV is hereafter referred to as "Client".
- An (hire) agreement between Compules BV and Client is hereafter referred to as "(Hire) Agreement".

Article 1 - Offer and Agreement

- 1.1 These General Terms apply to all offers and Agreements in which Compules BV, based in Nieuw-Venep, hereafter to be referred to as "Compules", supplies goods and/or services of any description to Client, including the rental and sale of computer equipment and/or software, courses and such. By signing the Agreement Client accepts these General Terms, including every addition thereto or modification thereof as soon as it is made known in writing.
- 1.2 Deviations from and/or additions to these General Terms are only valid if they have been agreed upon explicitly in writing.
- 1.3 All offers are without engagement, unless the offer explicitly states otherwise in writing.
- 1.4 Applicability of any purchase order terms or other conditions made by Client is explicitly rejected.
- 1.5 Annulment or nullity of any of the conditions does not affect the validity of the remaining conditions.
- 1.6 These General Terms and possible further written Agreements between parties dispose of all preceding quotations, prior Agreements, correspondence and suchlike, except in so far as these are referred to specifically.
- 1.7 An order placed by Client with Compules is considered to be definite once both parties have signed an order confirmation.

Article 2 - Price and payment

- 2.1 All prices are stated in euro's (€), excluding Value Added Tax (V.A.T.) and any other taxes that may be imposed by Government.
- 2.2 In the absence of specific provisions Compules is entitled to adjust its prices and rates from time to time.
- 2.3 By means of a written notification to Client, Compules is at all times entitled to adjust the agreed prices and rates of services that, according to the relevant planning or Agreement, will be provided at a point in time at least three months after the date of such notification.
- 2.4 In case Client does not agree with an adjustment of prices and rates made known by Compules, as expressed in article 2.2 and 2.3, Client is entitled to either terminate the Agreement as per the date mentioned in the notification by Compules at which the price or tariff adjustment would take effect, or cancel the Agreement. Termination of the Agreement must be requested in writing within 7 workdays after receipt of such notification.
- 2.5 Client shall pay all invoices in accordance with the payment terms stated on the invoice. In the absence of specific payment terms Client shall pay within 14 days of the invoice date. The term of payment is considered to be an ultimate term.
- 2.6 In case Client fails to pay the amounts due within the agreed time frame, Client is in default without the need for further declaration of default and Client will owe Compules 1.5 % interest per month on the outstanding amount. In case Client remains neglectful in settling the debt, Compules may part with its claim, in which case Client will be held to full compensation of legal and non-legal costs, including all solicitor costs and all costs of external specialists, to the extent of at least 15% of the amounts due, not diminishing Compules' right to charge Client the actual costs in case the actual costs are verifiably higher.
- 2.7 Complaints regarding an invoice should be made known in writing within 7 days of the invoice date at the latest. Hereafter the invoice is deemed to have been accepted by Client. A complaint about an invoice does not entitle Client to suspend its obligation to pay. Client is not permitted to settle claims, for whatever reason, that Client might have against Compules, with amounts invoiced by Compules.

Article 3 - Confidential information

- 3.1 Compules and Client commit themselves to absolute confidentiality regarding all facts, events and data concerning the other party they take cognizance of as a result of their connection and publication of which can harm the interests of the other party. Information shall in any case be considered confidential in case it is indicated as such by one of the parties.
- 3.2 For the duration of the Agreement as well as during a period of one year after termination thereof, none of the parties shall employ employees of the other party that have been involved in the execution of the Agreement, or otherwise engage them directly or indirectly, without the consent of the other party.

Article 4 - Proviso of property and rights

- 4.1 In so far as - contrary to stipulations regarding equipment as expressed in article 6.1 - Client obtains the property of equipment supplied by Compules, Compules retains ownership thereof until all claims Compules has against Client in this matter are settled in full, including the amounts expressed in article 2.6.
- 4.2 As long as ownership of the equipment has not passed to Client, the latter is prohibited from pawning the equipment, transferring ownership, or granting third parties any other right thereupon, except for the stipulations in the following paragraph.
- 4.3 Client is permitted to sell and deliver equipment supplied under proviso of property, to a third party in accordance with its normal course of business. Apart from in this case Client is obliged to retain the equipment supplied under proviso of property with due care and as identifiable property of Compules. In case of contravention of the above stipulations reimbursement becomes claimable in full on demand notwithstanding stipulations to the contrary.
- 4.4 Compules is hereby irrevocably empowered by Client to repossess the equipment supplied under proviso of property without any legal intervention, summons or declaration of default. Client is required to co-operate with said repossession on penalty of a fine of € 450.- (four hundred and fifty euro) per day Client is in default. Through repossession by Compules the Agreement is not dissolved, unless Compules has communicated this to Client.
- 4.5 Rights are granted to Client or, as the case may be, assigned to Client on the condition that Client pays the agreed reimbursements in time and in full.

Article 5 - Risk

The risk of loss or theft of, and damage to the goods that are the object of the Agreement, passes to Client once these are placed in the actual possession of Client or an assistant engaged by Client. This includes the risk of damages caused by computer viruses and other elements foreign to software.

Article 6 - Rights of intellectual or industrial property

- 6.1 All rights of intellectual or industrial property of all software, equipment or other goods such as, among others, documentation developed or made available under the Agreement, reside exclusively with Compules or its licensors. Client only acquires the right of use and authority granted under the terms of the Agreement or otherwise granted explicitly. Client shall not multiply or make copies of the software or other goods.
- 6.2 Client is deemed to be aware of the fact that the software, equipment and other goods provided contain confidential information and trade secrets pertaining to Compules or its licensors. Not diminishing stipulations in article 3, Client commits to keep said software, equipment and goods confidential, not to give out information thereof to third parties or give it in use to third parties, and to only use it for the purpose for which it has been placed at its disposal. Among third parties are also included all persons employed in the organization of Client that not necessarily have to use the said software, equipment and/or other goods.



- 6.3 Client is not permitted to remove any distinguishing mark, such as identifying numbers and name tags, concerning copyright, trade-marks, trade names or other rights of intellectual or industrial property, from the software, equipment or goods, or make any modifications thereto.
- 6.4 Making copies is only permitted in so far as necessary for backup purposes (viz. the safeguarding of software and files). Every copy is required to contain the same copyright and trade-mark indication as the supplied version. In case a temporary right of use is granted, copies are to be destroyed on termination thereof.
- 6.5 Client is not permitted to de-compile the software, unless provided with compelling title in legal provisions. The data necessary to bring about the interoperability within the meaning of legal provisions is deemed readily available if Compules can either bring about the interoperability by itself through an automated solution or at the going (hourly) rate, or make available the necessary data at the going rate. In this context by interoperability within the meaning of legal provisions is understood the automated interaction between the software, including the allied data structure, and other application software, including allied data structures.
- 6.6 In case and in so far as Compules provides Client with third party software and documentation, the general terms and conditions of these third parties will apply as far as this software and documentation is concerned, disregarding stipulations in these General Terms, provided that this has been communicated to Client in writing. Client accepts the third party terms and conditions in question. These terms and conditions are open to examination by Client at the offices of Compules. Compules will forward said terms and conditions to Client at its request. In case the third party terms and conditions require this, Client shall sign a separate sub-licence agreement with this third party along with the Agreement with Compules. In case and in so far as the third party terms and conditions in question are for whatever reason considered not to be applicable or are declared irrelevant in the relation between Compules and Client, the stipulations in these General Terms will apply.
- 6.7 Any liability or obligation to safeguard by Compules on account of violation of third party rights of intellectual and industrial property is ruled out. This includes liability for and the obligation to safeguard against infringements that are caused by use of the equipment, software and materials supplied in a form not modified by Compules, in connection with items or software not supplied or provided by Compules, or in a different manner than for which the equipment, software and/or materials were developed or intended.

Article 7 - Co-operation by Client

- 7.1 Client shall always supply all useful and necessary data or information needed for a proper execution of the Agreement in good time and lend all co-operation.
- 7.2 Client is responsible for the use and the application within its organisation of the equipment and software and of the services to be provided by Compules, as well as for the supervision and safety procedures and an adequate system administration.
- 7.3 In case the data necessary to Compules for the execution of the Agreement is either not available, not available in time or not made available as agreed, or in case Client does not meet its obligations in any other way, Compules is at all times entitled to suspend the execution of the Agreement, and has the right to charge the costs incurred as a result thereof to Client in accordance with its usual rates.
- 7.4 In case employees of Compules perform activities at the location of Client, Client shall provide the facilities required within reason by these employees free of charge (such as, if applicable, a workspace with telecommunication facilities, etc.). Client shall safeguard Compules against claims made by third parties, including employees of Compules that, in connection with the execution of the Agreement, suffer a loss as a result of actions taken by Client or the neglect of Client, or as a result of unsafe situations in its organisation.

Article 8 - Hire and hiring out

- 8.1 On closing a Hire Agreement the opposing party is obliged to identify itself twofold. In case delivery of the rented goods is taken by an employee or an assignee of Client, this person is required to show a valid form of proxy and also identify himself twofold. Only valid means of identification are accepted. Identification papers and forms of proxy may be copied by Compules.
- 8.2 The hire term is one day or a multiple thereof.
By a day is understood :
- in case of hire for one day : the time between 09.00 and 17.00 hrs;
- in case of hire for a multiple of days : a period of 24 hrs on the understanding that the hire term always starts at 09.00 hrs on the first day of the agreed hire term and always ends at 17.00 hrs on the last day of the agreed hire term.
Regarding the application of these conditions, by one week is understood : seven consecutive days
Regarding the application of these conditions, by one month is understood : thirty consecutive days
- 8.3 The hire term shall start on the day agreed in the Hire Agreement. The hire term ends on the day agreed in the Hire Agreement unless parties have agreed otherwise.
- 8.4 In case the hire is entered into for a term longer than one day, the cost of hire per day is calculated by dividing the agreed rental price by the number of days the hire is entered into.
- 8.5 In case the hired object(s) have not been returned to Compules before 17.00 hrs. on the day at which the agreed hire term ends, Client incurs a fine by right without the need for any declaration of default and not diminishing Compules' right to full compensation for every day or part of a day that the hired object(s) have not been returned to Compules. This fine is claimable on demand and payable to Compules and is equal to 125% of the agreed rental price per day, as calculated in conformance with article 8.4.
- 8.6 In the case stated in article 8.5 Client is in default by right and Compules is entitled to take possession of the hired object(s). The costs incurred by Compules in this matter are at the expense of Client and are claimable on demand without the need for any declaration of default.
- 8.7 Termination of the Hire Agreement at a date prior to the end of the agreed hire term can only take place by mutual consent.
- 8.8 In case of bankruptcy, suspension of payment, concordat, voluntary debt settlement, seizure of properties, death or placement under guardianship of Client, Compules is entitled to terminate the Hire Agreement forthwith and take possession of the hired object(s) at the expense of Client, not diminishing its other rights ensuing from the Agreement.
In case one of the events described in the previous sentence occurs, Client is in default and the amount Compules is due on account of the Hire Agreement is by right claimable on demand without the need for any declaration of default. All costs Compules has to make to take possession of the hired object(s) in the cases stated in this article are at the expense of Client and are also claimable on demand without the need for any declaration of default.
- 8.9 At the start of the hire period Client shall pay Compules a deposit in compliance with what has been stipulated thereto in the Hire Agreement. In case the delivery or installation of the equipment is postponed as a result of an action or neglect by Client, Client will nevertheless owe the rental price based on the earlier date at which the equipment should have been delivered.
- 8.10 On expiration of the hire term Compules is entitled to settle all that Compules is due with the deposit.
- 8.11 Transportation of the hired object(s) is at the expense and risk of Client. Forwarding charges and packaging costs are also at the expense of Client, unless otherwise agreed upon explicitly in writing. Client is required to use the equipment and software with care, and may only have capable experts operate the equipment in the manner dictated by Compules in compliance with the operating instructions. Other use, of whatever nature, is not permitted.
- 8.12 Client is obliged to arrange for adequate and valid insurance of the hired object(s) against purchase value.
In case of theft or loss of the hired object(s) Client is in principle required to provide identical replacement of the hired object(s) in the shortest possible time, and also reimburse Compules for all costs and damages that it might incur. In case the insurer does not pay out sufficiently for whatever reason, Client is obliged to bear the total or partial cost for replacement of the equipment concerned.



- 8.13 Client is obliged to keep the equipment and/or software with accompanying documentation under his control and on his business premises and only use it for the number and type of users or connections for which the right of use has been issued. Only with the consent of Compules is it permitted to use or have the equipment and/or software and accompanying documentation used at a different location. Client is in particular prohibited from transporting the equipment and/or software with accompanying documentation to another country or using it or having it used there.
- 8.14 Barring wear due to normal use, Client is obliged to return the equipment to Compules in good condition at the end of the hire term. The cost of repairs to the hired object(s) are at the expense of Client.
- 8.15 Client is explicitly advised to test the equipment and/or software before putting it to use. The packaging of equipment and/or software remains the property of Compules.
- 8.16 Client obliges itself towards Compules to make frequent back-ups of all files created or edited using the hired equipment.
- 8.17 In the event of seizure of the equipment, (application for) suspension of payment or (a petition for) bankruptcy of Client, Client is obliged to immediately send Compules a copy of the official report including any attachments of either the petition to grant suspension of payment or the petition for adjudication in bankruptcy, or of the order in which the suspension of payment or the bankruptcy is declared. In case a third party lays any claim on the equipment, Client shall inform Compules about this in the proper manner without delay.
- 8.18 Identifying numbers and name tags of Compules and/or businesses associated with Compules and/or the manufacturer, that have been fixed to the equipment, may not be removed or damaged.
- 8.19 All costs Compules incurs with regard to Clients' request to de-install, relocate and re-install the equipment shall be reimbursed to Compules by Client. During relocation of the equipment the rental fee remains due.
- 8.20 Compules owns and will retain ownership of the hired out equipment and software with accompanying documentation. Ownership can never be assumed to have transferred by delivery or payment of the rental fee.
- 8.21 Client is among other things not permitted :
- to place the equipment and/or software with accompanying documentation at the disposal of a third party in any way, either free of charge or at a cost, nor relinquish control thereof ;
 - to sell, hire out, sub-licence, alienate, or bestow limited rights to the software and the carrier onto which it is recorded ;
 - to modify the software, other than for the rectification of errors ;
 - to use the software for the processing of data on behalf of a third party ;
 - to copy or have the software supplied by Compules copied onto any type of carrier and/or place it at the disposal of a third party without the written consent of Compules.
- 8.22 In case Compules is sued either in or out of court by a licensor on account of violation of the prohibition stated in art. 8.21, regarding infringement of the license granted to Compules by licensor, Client shall safeguard Compules fully in this matter if this violation is due to Client.
- 8.23 In the event of a breach of the prohibition mentioned in article 8.21 Client incurs a fine, by right, of € 5000.- (five thousand euro) per infringement, claimable immediately and payable to Compules without the need for any declaration of default, not diminishing what is stated in article 8.22 and not diminishing Compules' right to full compensation.

Article 9 - Services and helpdesk

- 9.1 On work days during office hours, in principle between 09.00 and 17.00 hrs, Client can consult the Compules helpdesk for questions regarding the use of the products rented from Compules.
- 9.2 Client shall himself appoint one helpdesk co-ordinator who will report possible technical problems and user questions to Compules. Client will communicate the name of this helpdesk co-ordinator to Compules in writing. The helpdesk co-ordinator must be able to :
- operate standard software ;
 - answer user questions ;
 - interpret error messages from either the system, the equipment or the software, and have the relevant data available in order to perform a problem analysis.

Article 10 - Claims

- 10.1 In case a product hired out or supplied by Compules exhibits any defect, Client shall inform Compules thereof in writing immediately after this defect is discovered or should have been discovered within reason at the risk of loss of all possible claims by Client.
- 10.2 Under no circumstances shall Client have any claim against Compules in case a defect is reported more than a year after entering into the Agreement.
- 10.3 Claims don't justify Client to suspend payment, or refrain from payment altogether.

Article 11 - (Delivery) Terms

All (delivery) terms have been determined by Compules to the best of its ability on the basis of the information available to Compules when entering into the Agreement, and said (delivery) terms will be adhered to as much as possible. Occasional inability to meet said (delivery) terms does not constitute default on the part of Compules. Compules is not bound to (delivery) terms that can not be met due to circumstances beyond its control that have arisen after entering into the Agreement. In case it is imminent that a (delivery) term will be exceeded, Compules and Client shall confer with each other as soon as possible.

Article 12 - Termination

- 12.1 Each party is only due the authority to dissolve the Agreement in case the opposing party is accountably neglectful in the fulfilment of essential commitments pursuant to the Agreement after receiving a valid and as detailed as possible written declaration of default in which a reasonable term is set to rectify the shortcoming.
- 12.2 A long-term Agreement can be terminated by each of the parties after sound deliberations by written notice stating the reason. In case no explicit term of notice has been agreed upon between parties, a reasonable term must be observed when terminating the Agreement. Parties will never be bound to any form of compensation as a result of said termination.
- 12.3 Compules may partially or fully terminate the Agreement at a moments notice without declaration of default and without judicial intervention in case :
- Client is granted suspension of payment albeit temporarily or not ;
 - a bankruptcy petition is presented regarding Client, or
 - in case Clients' company is liquidated or terminated for other reasons than for the purpose of reconstruction or merger of companies.
- Compules shall never be bound to any form of compensation on account of this termination.
- 12.4 In case Client has already received performances in execution of the Agreement at the time of dissolution as meant in article 12.1, these performances and the allied obligation to pay shall not be the object of dissolution, unless Compules is in default in regard to these performances. Amounts Compules has invoiced prior to the dissolution pertaining to what it has already performed or delivered in execution of the Agreement remain due in full, with due observance to what was stated in the previous sentence, and are immediately claimable at the moment of dissolution.

**Article 13 - Liability of Compules; Safeguarding**

- 13.1 Compules accepts legal obligations to pay damages in so far as this is apparent from this article.
- 13.2 Liability of Compules for damages of whatever nature, except for harmful intent and gross negligence, is excluded fully.
- 13.3 Liability of Compules is excluded for any causal damages, indirect damages (including loss of profits, unrealised economizations and damages caused by industrial stagnation), immaterial damages and damages to third parties that Client may or shall suffer in connection with or as a consequence of the Agreement.
- 13.4 In so far as Compules could be held responsible for any damages, the damages will always be limited to the amounts the insurer pays out on the relevant policy. Compules has insured its legal liability in this context and does not have an insurance for professional accountability.
- 13.5 The damages payable on account of accountable shortcoming in the fulfilment of the Agreement shall under no circumstances amount to more than 50% of the amounts invoiced and to be invoiced by Compules to Client on account of that Agreement (exclusive of Value Added Tax).
- 13.6 In case of a long-term Agreement the damages as a result of accountable shortcoming shall under no circumstances exceed the price (exclusive of Value Added Tax) stipulated in the Agreement in question for performances by Compules in the period of three (3) months prior to the neglect of Compules.
- 13.7 The liability of Compules on account of accountable shortcoming in the fulfilment of the Agreement shall only come into existence in case Client declares Compules in default in writing validly without delay, providing Compules with a reasonable term to rectify its shortcomings, and in case Compules remains accountably neglectful in the fulfilment of its obligations after said term.
The declaration of default shall contain an as detailed as possible description of the shortcoming, enabling Compules to react adequately.
- 13.8 A precondition for the origination of any right to compensation is always that Client reports the damages to Compules in writing as soon as possible after the origination thereof.
- 13.9 Client safeguards Compules against all damages Compules might suffer as a consequence of claims made against it by whatever third party relating to the goods or services provided by Compules.
- 13.10 The exclusions and reductions of liability as stated in this article are as much stipulated for and on behalf of Compules' subordinates and any other persons engaged by Compules for the supply of services, as for and on behalf of parties from which Compules obtains supplied goods and/or parts.

Article 14 - Force majeure

- 14.1 Compules is not bound to the fulfilment of any obligation, if it is impeded to do so as a result of force majeure. In these General Terms by force majeure is understood every circumstance as a result of which fulfilment of the Agreement by Compules can no longer be required by Client within reason.
In this context by force majeure is in any case understood a non-accountable shortcoming by Compules' suppliers, war (danger thereof), floods, fire, governmental decrees, import and export restrictions, transport difficulties, strikes, and illness of employees mentioned by name or non-replaceable employees.
- 14.2 If the force majeure has lasted at least three (3) months, or if it is clear that it will last at least three (3) months, parties are entitled to terminate the Agreement by means of a written dissolution. All that has already been performed in compliance with the Agreement shall be settled proportionally without the parties otherwise being indebted to each other.

Article 15 - Export

Without prior consent from Compules, Client shall not take the equipment and software supplied by Compules outside The Netherlands (including by means of a network), nor make it available to any corporate body or person of which Client can suspect within reason that it or he might take the equipment and software outside The Netherlands. This obligation applies in relation to export regulations by Dutch and American government.

Article 16 - Applicable law and disputes

- 16.1 These General Terms and Agreements between Compules and Client are subject to Dutch Law.
The application of the International Sale of Goods Act (Vienna Convention) is explicitly excluded.
- 16.2 The competent legal body in Haarlem shall be qualified to take cognizance of disputes on account of these General Terms or the Agreements entered into between Compules and Client, not diminishing each party's right to apply for immediate judgement. A dispute is present if one of the parties states such.
- 16.3 In case a dispute arises concerning the interpretation of a stipulation in an appendix of these General Terms, the General Conditions of these General Terms prevail, unless they were deviated from explicitly.

Article 17 - Final Provision

In case of any conflict or inconsistency between the stipulations in this English translation of our General Terms and the stipulations in the original Dutch version, the Dutch version will prevail.