

## General delivery terms

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### Article 1. General

1. These conditions are applicable to each offer, quotation, and agreement with Imagine Leisure, to the extent these conditions have not been expressly deviated from in writing.
2. In case of quotations and offers, the version attached to referred to most recently is applicable.
3. For every agreement, the version effective at the time of concluding the legal relationship with Imagine Leisure is applicable.
4. The underlying conditions are also applicable to agreements with Imagine Leisure, whereby for implementation third parties are deployed by Imagine Leisure.
5. The applicability of any possible purchasing or other conditions of Client is emphatically rejected.
6. If one or more provisions in these general conditions are at any time, entirely or partially, void, or may be annulled, then what is otherwise stipulated in these general conditions remains fully effective. Imagine Leisure and the Client will in such case enter into consultations so as to establish new provisions to replace the void or annulled provisions, whereby the purpose and tenor of the original provisions will be observed as much as possible.
7. If ambiguity pertains regarding the interpretation of one or more provisions of these general conditions, the interpretation must be made 'in the spirit' of these provisions.
8. If a situation occurs between parties which is not arranged for in these general conditions, then this situation must be evaluated in the spirit of these general conditions.
9. If Imagine Leisure does not constantly demand strict observance of these conditions, this does not mean that their provisions are not applicable, or that Imagine Leisure to any extent would lose the right to demand strict observance of the provisions of these conditions in other cases.

## **Article 2. Quotations and offers**

1. All quotations and offers of Imagine Leisure are non-committal, unless a term for acceptance is established in the quotation. In case no term for acceptance is established, no rights whatsoever can in any manner be derived from the quotation or offer if the product or service which the quotation or offer is in regard to has in the meantime become unavailable.
2. Imagine Leisure cannot be held to its quotations or offers if the Client can reasonably understand that the quotations or offers, or a part thereof, contains an apparent mistake or typing error.
3. The prices listed in a quotation or offer are exclusive of VAT and other government-imposed levies, also including travel and accommodation costs, shipping and administration costs, unless indicated otherwise.
4. If the acceptance (whether or not on minor points) deviates from the proposal included in the quotation or the offer, then Imagine Leisure is not bound by it. The agreement will in such case not be adopted in accordance with this deviating acceptance, unless Imagine Leisure indicates otherwise.
5. A compound price quotation does not oblige Imagine Leisure to carry out a part of the assignment against a corresponding part of the quoted price. Offers or quotations do not automatically apply to future orders.

## **Article 3. Contract duration; implementation terms, risk-transfer, implementation/modification agreement; price increase**

1. The agreement between Imagine Leisure and the Client is adopted for an unlimited time, unless it results differently from the nature of the agreement or parties emphatically establish otherwise in writing.
2. If for the implementation of certain activities or for the delivery of certain matters a term has been established or indicated, this is never a fatal time limit. In case of the overrunning of a term, the Client must therefore declare the default of Imagine Leisure in writing. A reasonable term must thereby be offered to Imagine Leisure to still implement the agreement.
3. Imagine Leisure will implement the agreement to the best of its insight and abilities and in accordance with the requirements of good workmanship. And all matters on grounds of the state of the art.
4. Imagine Leisure has the right to have all or parts of the activities carried out by third parties. The applicability of article 7:404, 7:407 section 2 and 7:409 BW (Netherlands Civil Code) is emphatically excluded.



5. If in the context of the assignment activities are carried out by Imagine Leisure or by third parties deployed by Imagine Leisure at the location of the Client or at a location designated by the Client, then Client will take care of such facilities as are reasonably requested by those collaborators.
6. The Client is obligated to take the matters delivered by Imagine Leisure at the moment they are made available to him. If the Client refuses acceptance or is negligent in providing information or instructions which are necessary for delivery, then Imagine Leisure has the right to store the matters at the expense and risk of the Client. The risk of loss, damaging or decrease of value passes to the Client at the moment that matters are available to the Client.
7. Imagine Leisure is authorised to implement the agreement in various stages and thus to invoice the implemented part separately.
8. If the agreement is implemented in stages, Imagine Leisure can suspend the implementation of those components which are a part of the following stage until the Client has approved the results of the preceding stage in writing.
9. The Client makes sure that all information for which Imagine Leisure indicates it is necessary or of which the Client should reasonably understand that it is necessary, for the implementation of the agreement, is timely provided to Imagine Leisure. If information required for the implementation of the agreement is not timely provided to Imagine Leisure, Imagine Leisure has the right to suspend the implementation of the agreement and/or charge the additional costs resulting from the delay to the Client against the customary rates as they apply in that case. The implementation term does not commence before the Client has made the information available to Imagine Leisure. Imagine Leisure is not liable for damage, of whatever nature, due to Imagine Leisure relying on incorrect and/or incomplete information provided by the Client.
10. If it turns out during the implementation of the agreement that it is necessary for its adequate execution to modify or supplement it, then parties will timely and through mutual consultation proceed with the modification of the agreement. If the nature, scope, or content of the agreement, whether or not at the request or indication of the Client, the competent authorities, et cetera, is modified and as a result the agreement is altered qualitatively and/or quantitatively, this may have consequences for what was originally stipulated. As a result, also the originally established amount can be increased or decreased. Imagine Leisure will quote prices thereof in advance as much as possible.

11. Through the modification of the agreement, furthermore, the originally indicated term for implementation can be altered. The Client accepts the possibility of modification of the agreement, also including the change in price and implementation term.
12. If the agreement is modified, also including a supplement, then Imagine Leisure has the right to only implement it after it has been approved by the person authorised to do so at Imagine Leisure and after the Client has accepted the price and other conditions indicated for the implementation, also including the timing to be established in such case to implement those matters. Not or not immediately implementing the modified agreement does not entail malpractice on the part of Imagine Leisure and does not constitute grounds for the Client to cancel or annul the agreement.
13. Without falling into default as a result, Imagine Leisure can refuse a request for the modification of the agreement if this could have consequences at a qualitative and/or quantitative level, for example for the activities to be conducted or the matters to be delivered in that context.
14. If the Client were to fall short in the adequate implementation of what he is bound to towards Imagine Leisure, then the Client is liable for all damage on the part of Imagine Leisure which has occurred as a direct or indirect result.
15. If Imagine Leisure establishes a fixed fee or fixed price with the Client, then Imagine Leisure nevertheless has the right at all times to increase this fee or this price without entitlement of the Client in that case to rescind the agreement for that reason, if the increase of that price results from an authorisation or obligation pursuant to legislation or regulations or finds its cause in an increase of the price of raw material, wages, etcetera, or on other grounds which at the moment of adoption of the agreement were reasonably impossible to foresee.
16. If the price increase otherwise than as the result of a modification of the agreement exceeds 10% and it takes place within three months after conclusion of the agreement, then solely the Client entitled to appeal pursuant to title 5 department 3 Volume 6 BW has the right to rescind the agreement through a written statement, unless Imagine Leisure:
  - In such case is still willing to implement the agreement on grounds of what was originally established;
  - If the price increase flows from an authorisation falling to Imagine Leisure pursuant to legislation;

- If it is stipulated that the delivery will take place more than three months after the adoption of the agreement;
- Or upon the delivery of a matter, if it is stipulated that the delivery will take place more than three months after the purchase.

#### **Article 4. Suspension, rescission and premature cancellation of the agreement**

1. Imagine Leisure is authorised to suspend fulfilment of the obligations or to rescind the agreement:
  - If the Client does not, does not completely, or does not timely fulfil the obligations from the agreement;
  - If after adoption of the agreement circumstances which have come to the knowledge of Imagine Leisure constitute grounds to fear that the Client will not fulfil his obligations;
  - If the Client upon adoption of the agreement was requested to provide security for the fulfilment of his obligations and this security is not lodged or is insufficient;
  - Or if due to the delay on the part of the Client it can no longer be demanded from Imagine Leisure that it will comply with the agreement against the originally established conditions.
2. Imagine Leisure is furthermore authorised to rescind the agreement if circumstances occur which are of such a nature that fulfilment of the agreement is impossible or if circumstances otherwise occur which are of such a nature that the unaltered maintaining of the agreement cannot reasonably be demanded from Imagine Leisure.
3. If the agreement is rescinded, the claims of Imagine Leisure on the Client are immediately exigible. If Imagine Leisure suspends fulfilment of the obligations, it retains its claims pursuant to law and agreement.
4. If Imagine Leisure proceeds with suspension or rescission, it is in no manner bound to compensate damage and costs which occur as a result in whatever manner.
5. If the rescission is attributable to the Client, Imagine Leisure is entitled to compensation of the damage, also including the costs, which has occurred as a result both directly and indirectly.
6. If the Client does not fulfil his obligations pursuant to the agreement and this non-compliance justifies rescission, then Imagine Leisure has the right to rescind the agreement forthwith and with immediate effect, without any obligation on its part to pay any compensation or indemnification, while the Client, on account of malpractice, is bound to

pay compensation or indemnification.

7. If the agreement is cancelled prematurely by Imagine Leisure, Imagine Leisure will take care through consultation of the Client of the transfer of activities still to be conducted to third parties. This, unless the cancellation is attributable to the Client. If the transfer of the activities entails additional costs for Imagine Leisure, then those will be charged to the Client. The Client is bound to settle these costs within the term stipulated for it, unless Imagine Leisure indicates otherwise.
8. In case of liquidation, of (application for) suspension of payment or bankruptcy, of seizure – if and to the extent the attachment order is not lifted within three months – to the charge of the Client, of debt restructuring or another circumstance as a result of which the Client is no longer at liberty to dispose of his assets, Imagine Leisure is free to annul the agreement instantly and with immediate effect or to cancel the order or agreement, without any obligation on his part to pay any compensation of damage or indemnification. The claims of Imagine Leisure on the Client in such case are immediately exigible.
9. If the Client cancels a placed order entirely or partially, the activities which were carried out as well as the matters ordered or prepared for it, increased by any possible shipping-, disposal- and delivery-costs thereof as well as the labour time reserved for the implementation of the agreement, will be integrally charged to the Client.

#### **Article 5. Force majeure**

1. Imagine Leisure is not bound to comply with any obligation towards the Client if it is impeded from doing so as a result of a circumstance which cannot be attributed to fault and which is not their responsibility pursuant to the law, a legal action, or commonly held opinion.
2. Intended by force majeure in these general conditions is, besides what is interpreted as such in legislation and jurisprudence, all outside causes, foreseen or unforeseen, on which Imagine Leisure cannot exert any influence, though as a result of which Imagine Leisure is unable to fulfil its obligations. Strikes at the company of third parties included. Imagine Leisure also has the right to appeal to force majeure if the circumstance which impedes (further) compliance with the agreement, enters into effect after Imagine Leisure should have complied with its contract.

3. During the period that the force majeure lasts, Imagine Leisure can suspend the obligations from the agreement. If this period lasts longer than two months, each of the parties is entitled to rescind the agreement, without any obligation to compensate damage to the other party.
4. To the extent Imagine Leisure at the time the force majeure enters into effect has already partially fulfilled its obligations from the agreement or will be able to do so, and to the part already fulfilled or the part to be fulfilled respectively an independent value can be attributed, Imagine Leisure has the right to separately invoice the part already fulfilled or to be fulfilled respectively. The Client is bound to settle this invoice as if it regarded a separate agreement.

#### **Article 6. Payment and collection costs**

1. Payment must always take place within thirty (30) days after invoice date, in a manner to be indicated by Imagine Leisure in the currency in which the invoice is drawn up, unless indicated otherwise by Imagine Leisure in writing. Imagine Leisure has the right to invoice periodically.
2. If the Client falls short in the timely payment of an invoice, the Client falls legally into default. The Client in such case owes an interest of one (1) % per month, unless the statutory interest rate is higher, in which case the statutory interest is due. The interest over the exigible amount will be calculated from the moment that the Client is in default until the moment of settlement of the entire amount due.
3. Imagine Leisure has the right to let the payments made by Client serve primarily for the deduction of the costs, subsequently to deduct from the payable interest, and finally to be deducted from the principal and the current interest. Without thereby falling into default, Imagine Leisure can refuse a proposal for payment, if the Client indicates another sequence for the allocation of the payment. Imagine Leisure can refuse full settlement of the principal if thereby the payable and current interest and the collection costs are not settled as well.
4. The Client never has the right to set off what he owes to Imagine Leisure. Objections against the amount of an invoice do not suspend the payment obligation. The Client not entitled to an appeal pursuant to department 6.5.3 (the articles 231 through 247 volume 6 BW) does not have the right either to suspend the payment of an invoice for another reason.

5. If the Client falls short or in default in the (timely) fulfilment of his obligations, all reasonable costs for the obtaining of extrajudicial settlement are borne by the Client.
6. The extrajudicial costs are calculated on the basis of what is customary in the Netherlands collection practice, at the moment the calculation method according to 'Rapport Voorwerk II'. If Imagine Leisure, however, has incurred higher collection costs which were reasonably necessary, the costs effectively incurred are eligible for compensation. Such judicial and enforcement costs as may have been incurred will also be claimed from the Client. The Client also owes interest over the due collection costs.

#### **Article 7. Retention of property**

1. What is delivered by Imagine Leisure in the context of the agreement, remains the property of Imagine Leisure until the Client has adequately fulfilled all obligations from the agreement(s) concluded with Imagine Leisure.
2. What is delivered by Imagine Leisure which pursuant to section 1 is subject to the retention of property, may not be resold and may never be used as a means of payment. The Client is not authorised to pawn the matters subject to retention of property or to encumber them in any other manner.
3. The Client must always take all such actions as can reasonably be expected of him to secure the property rights of Imagine Leisure. If third parties place an attachment on what was delivered under retention of property or if they wish to establish or exercise rights to those matters, then the Client is obligated to immediately inform Imagine Leisure accordingly. The Client furthermore commits himself to insure and keep insured the matters delivered under retention of property against fire, explosion and water-damage, as well as against theft, and to present the policy of this insurance upon first request to Imagine Leisure for perusal. In case of a possible disbursement by the insurer, Imagine Leisure is entitled to these funds. The Client commits himself as much as necessary towards Imagine Leisure beforehand, to grant his assistance for anything which may (turn out to) be necessary or desirable in that context.
4. In the event Imagine Leisure wishes to exercise its property rights as referred to in this article, the Client grants unconditional and irrevocable permission beforehand to Imagine Leisure and to third parties to be indicated by Imagine Leisure to enter all those areas where the property of Imagine Leisure is located and to take it back.



### **Article 8. Guarantees, investigation and complaints, limitation term**

1. The matters to be delivered by Imagine Leisure meet the customary requirements and standards which can reasonably be established for them at the moment of delivery and for the regular use they are normally intended for in the Netherlands. The guarantee referred to in this article is applicable to matters which are intended for use within the Netherlands. In case of use outside the Netherlands, the Client must verify himself whether the use thereof is suitable as it is applied over there and whether it meets the conditions established for it. Imagine Leisure can in that case establish different guarantee and other conditions regarding the matters to be delivered or the activities to be carried out.
2. The guarantee mentioned in section 1 of this article is effective for a 1-month period after delivery, unless it flows differently from the nature of what is delivered, or parties have established otherwise. If the guarantee provided by Imagine Leisure regards a matter which was manufactured by a third party, then the guarantee is limited to what is provided for it by the manufacturer of the matter, unless indicated otherwise.
3. Every type of guarantee comes to lapse if a defect has occurred as a result of or flows from inexpert or inappropriate use of it or the incorrect storage or maintenance of it by the Client and/or by third parties in case, without the written consent of Imagine Leisure, the Client or third parties have applied changes or have attempted to apply them, other matters have been attached which must not be attached to it, or if these were processed or incorporated in a manner different from the prescribed manner. The Client is not entitled either to guarantees if the defect has occurred through or as a result of circumstances on which Imagine Leisure cannot exert any influence, also including weather conditions (such as, though not limited to, extreme precipitation or temperatures) etcetera.
4. The Client is obligated to (let) investigate the delivered matters, immediately at the moment the matters are made available to him or the relevant activities have been conducted respectively. The Client must thereby investigate whether the quality and/or the quantity of the delivered matters corresponds with what was established and meets the requirements which parties have established concerning. Any possible defects must be reported within seven (7) days after delivery in writing to Imagine Leisure. Any possible invisible defects must be reported forthwith, though in any case no later than within fourteen days after discovery, to Imagine Leisure in writing.



5. The report must contain a description of the defect with the greatest possible detail, so that Imagine Leisure is able to respond adequately. The Client must enable Imagine Leisure to (let) investigate a complaint.
6. If the Client files the complaint timely, this does not suspend his payment obligation. The Client remains bound in such case as well to the purchase and payment of the other ordered matters and to what he has ordered Imagine Leisure to carry out.
7. If a defect is reported later, the Client is no longer entitled to repair, replacement, or indemnification.
8. If it has been established that a matter is defective and a complaint has been timely filed, Imagine Leisure will replace or take care of the repair or of a substitute compensation for the defective matter, within a reasonable term after receiving it back or otherwise, if returning it is not reasonably possible, after the written notification concerning the defect by the Client, at the discretion of Imagine Leisure. In case of replacement, the Client is bound to return the replaced matter to Imagine Leisure and to provide the property thereof to Imagine Leisure, unless Imagine Leisure indicates otherwise.
9. If it is established that a complaint is unfounded, all costs arising as a result, also including the investigation costs, incurred by Imagine Leisure as a consequence, are borne by the Client.
10. After expiry of the warranty term, all costs for repair or replacement, including administration, shipping, and calling costs, will be charged to the Client.
11. In derogation to the statutory limitation terms, the limitation period for all claims and rebuttals towards Imagine Leisure and the third parties involved in the implementation of an agreement, amounts to one (1) year.

### **Article 9. Liability**

1. If Imagine Leisure were to be liable, then this liability is limited to what is arranged for in this clause.
2. Imagine Leisure is not liable for damage, of whatever nature, which has occurred because Imagine Leisure based itself on incorrect and/or incomplete information provided by or on behalf of the Client.
3. If Imagine Leisure were to be liable for any damage, then the liability of Imagine Leisure is limited to a maximum of the invoice value of the order, or in any case to that part of the order which the liability is in regard to.
4. Imagine Leisure is exclusively liable for direct damage.
5. By direct damage is exclusively intended the reasonable cost to determine the cause and extent of the damage, to the extent the determination regards damage in the sense of these conditions, any reasonable costs as may have been incurred to let the defective performance of Imagine Leisure comply with the agreement, to the extent they can be attributed to Imagine Leisure as well as reasonable costs incurred to prevent or limit the damage, to the extent the Client proves that these costs have led to the limitation of direct damage as intended in these general conditions. Imagine Leisure is never liable for indirect damage, also including consequential damage, loss of profit, missed out savings, and damage resulting from operational stagnation.
6. The limitations of liability stipulated in this article do not apply if the damage can be blamed on intent or gross negligence of Imagine Leisure or its managing subordinates.

### **Article 10. Safeguards**

1. The Client safeguards Imagine Leisure against any possible claims of third parties which incur damage in connection with the implementation of the agreement and the cause of which is attributable to others than Imagine Leisure. In case Imagine Leisure were to be addressed on that account by third parties, the Client is bound to assist Imagine Leisure both judicially and extra-judicially and to forthwith take all such actions as may be expected of him in such case. Were the Client to fall short in the taking of adequate measures, then Imagine Leisure has the right, without any default notice, to proceed to take them itself. All costs and damage on the part of Imagine Leisure and of third parties incurred as a result will be at the integral expense and risk of the Client.

### **Article 11. Intellectual property**

1. Imagine Leisure reserves itself the rights and powers which fall to it pursuant to copyright legislation, 'Auteurswet', and other intellectual legislation and regulations. Imagine Leisure has the right to apply knowledge accumulated on its part as a result of the implementation of an agreement for other purposes as well, to the extent no strictly confidential information of the Client is thereby brought to the knowledge of third parties.

### **Article 12. Applicable law and disputes**

1. To all legal relationships to which Imagine Leisure is a party, Netherlands legislation is exclusively applicable.
2. Also if a contract is entirely or partially implemented abroad, or if the party involved in the legal relationship has its domicile there. The applicability of the Vienna Commercial Treaty is excluded.
3. The court of law in the place of establishment of Imagine Leisure is exclusively competent to hear disputes, unless the law prescribes differently in the mandatory sense. Imagine Leisure nevertheless has the right to submit the dispute to the legally competent court of law.
4. Parties will only take recourse to the court of law after having exerted themselves to the utmost to settle a dispute by mutual agreement.