

**General Terms and Conditions of Tinker Imagineers B.V.**

**1. applicability**

- a. These General Terms and Conditions apply to all offers, assignments and agreements concluded between Tinker Imagineers B.V., hereinafter referred to as 'Tinker', and other parties.
- b. Terms and agreements that deviate from these General Terms and Conditions are only legally valid if and insofar as such deviations have been confirmed in writing by Tinker.
- c. Should any condition in these General Terms and Conditions deviate from the conditions in the agreement concluded between parties, the condition included in the agreement will prevail.
- d. The General Terms and Conditions apply in equal measure to any additional or follow-up commissions.
- e. These General Terms and Conditions have been drawn up both in Dutch and in English. The Dutch version is leading.

**2. other party's data**

- a. The other party undertakes to present Tinker with all documents deemed necessary by Tinker for the correct execution of the commission, in the desired form, manner, and time. The specifics of the 'desired form, manner, and time' are at the discretion of Tinker.
- b. The other party indemnifies Tinker against any damage resulting from incorrect or incomplete documents.
- c. The additional costs incurred and extra hours worked by Tinker, as well as any damage sustained by Tinker in connection with the failure of the client to provide the documents necessary for the execution of the work, or its failure to do so on time or adequately, are at the risk and expense of the other party.
- d. Tinker is entitled to suspend the execution of the commission until the other party has fulfilled the obligations referred to in paragraph a.

**3. formation and execution of the agreement**

- a. Any agreement with Tinker is only considered valid after it has been signed by someone authorised to that effect by Tinker.
- b. Tinker will carry out the order to the best of its ability and with due observance of the applicable laws and regulations.
- c. Tinker determines the manner in which the commission is carried out, as well as the employee(s) and subcontractor(s) who will do the work.
- d. Tinker is entitled to have the work carried out by a third party to be appointed by Tinker.

**4. laws and regulations**

- a. Tinker will take appropriate measures to protect any personal data and other confidential information originating from the other party. Tinker will inform its employees and any third parties engaged about the confidential nature of the information. Tinker processes any personal data in conformity with the applicable laws and regulations.

- b. The other party and the persons deployed by the other party will be required to follow the (safety) instructions given by or on behalf of Tinker. If they fail to do so, the other party will be liable for any negative consequences.
- c. Tinker excludes all liability for damage caused to the other party as a result of Tinker's compliance with the applicable laws and regulations.
- d. Parties will impose their obligations under this article on third parties to be engaged by them.

**5. intellectual property**

- a. All intellectual-property rights that arise in the context of the performance of the agreement accrue to Tinker unless otherwise agreed in writing. The other party guarantees that the goods delivered do not infringe any intellectual property rights of third parties and indemnifies Tinker against any claims in that respect from third parties.
- b. At Tinker's first request, the other party will cooperate in recording Tinker's intellectual property rights in any manner whatsoever.
- c. Tinker is entitled to put its name on or alongside the work and to use the work for its own publicity and/or promotional purposes. The other party will only be entitled to do so with Tinker's written consent.
- d. Tinker is permitted to use the name of the other party and the subject of the agreement concluded with the other party for its own publicity or promotional purposes, for example in a reference on Tinker's website.
- e. Under no circumstances may the other party reproduce, disclose, or exploit products of which the intellectual property rights are vested in Tinker, or products that are covered by the protection of intellectual property for which Tinker has acquired the right of use. This stipulation sees to (but is not limited to) designs, computer software, system designs, working methods, advice, (model) contracts, reports, templates, macros, and other intellectual products.
- f. The other party undertakes to refrain from making the products referred to in paragraph d available to third parties without Tinker's prior written consent.

**6. force majeure**

- a. If parties are unable to fulfil their obligations under the agreement or are unable to do so in a timely or proper manner, due to force majeure within the meaning of Section 75 of Book 6 of the Dutch Civil Code, these obligations will be suspended until parties are able to fulfil them in the agreed manner.
- b. If the situation referred to in paragraph a arises, the parties have the right to terminate the agreement in writing, wholly or partly, and with immediate effect, without the right to any compensation.
- c. If Tinker has partially fulfilled the agreed obligations by the time the force majeure event occurs, Tinker will be entitled to charge the client separately and early for the work performed up to that point; the client undertakes to pay this invoice as if it were a separate transaction.

**7. fees and costs**

- a. The work performed by Tinker will be charged to the other party on the basis of time spent and costs incurred, unless parties explicitly agree otherwise, for instance on payment of a fixed price. Payment of the fees is not contingent on the result of the

work unless otherwise agreed in writing. Travel time and accommodation costs incurred in connection with the work are charged separately.

- b. In addition to the fees, the costs incurred by Tinker and the invoices of third parties engaged by Tinker are charged on to the other party.
- c. Tinker is entitled to request payment of an advance. Failure to pay the advance (on time) may cause Tinker to (temporarily) suspend the work.
- d. If fees or prices change after the conclusion of the agreement, but before the commission has been carried out in full, Tinker is entitled to adjust the agreed rate, unless explicitly agreed otherwise.
- e. If so required by law, Tinker will charge turnover tax on all amounts separately.

## 8. **payment**

- a. The other party undertakes to pay the amounts owed to Tinker within 30 days of the invoice date, without being entitled to any deduction, discount, suspension, or set-off, unless agreed otherwise. The day of payment is the day on which the amount due is credited to Tinker's account.
- b. If the other party fails to pay within the period referred to in paragraph a, the other party will be in default by operation of law and Tinker will be entitled to charge the statutory commercial interest from that moment on.
- c. If the other party fails to pay within the period referred to in paragraph a, the other party will be liable to pay all judicial and extrajudicial (collection) costs actually incurred by Tinker. Reimbursement of the costs incurred is not limited to the costs awarded by the court but extends to the lawyer's fees actually incurred. Payments primarily serve to pay the interest and costs owed to Tinker. Settlement then takes place against the oldest outstanding invoices.
- d. If, in Tinker's opinion, the other party's financial position or payment record gives cause to do so, or if the other party fails to pay an advance payment or an invoice within the payment term, Tinker will be entitled to require the other party to immediately provide (additional) security in a form to be determined by Tinker. Should the other party fail to provide the required security, Tinker will be entitled, without prejudice to its other rights, to immediately suspend further performance of the agreement, and all amounts owed by the other party to Tinker for whatever reason will be immediately due and payable.
- e. In the event that the other party is put into liquidation, if a petition has been filed for the liquidation of the other party, if the Debt Management (Natural Persons) Act (*WSNP*) has been declared applicable, if the other party loses control over its actions or if it otherwise ceases its activities, either compulsorily or voluntarily, Tinker will be entitled to suspend the fulfilment of its obligations or to dissolve the agreement with the other party without prior notice of default or judicial intervention and without Tinker being obliged to pay any compensation, all this without prejudice to Tinker's other rights.
- f. In the event of liquidation, attachment, application of the Debt Management (Natural Persons) Act (*WSNP*), or the other party's loss of control over its activities in any way whatsoever, payment of the balance due under the agreement will be owed at once.

## 9. **retention of title**

- a. All goods delivered and to be delivered remain the property of Tinker until payment has been made for all that is owed according to Tinker's records.

- b. As long as ownership has not been transferred to the other party, the other party must properly insure the goods and keep them with care and as the recognisable property of Tinker.
- c. Should third parties seize goods that have been delivered subject to retention of title, the other party must promptly notify Tinker thereof in writing, sending Tinker the relevant documents.
- d. Tinker is entitled to take possession of the goods subject to retention of title if the other party is in breach of contract or, according to Tinker, in financial difficulties.

**10. periods**

- a. If the other party and Tinker have agreed on a time or date before which the commission is to be carried out, and the other party fails: a) to make an advance payment - if so agreed - or b) to make the necessary documents available on time, in full, in the desired form and manner, the other party and Tinker will discuss a new deadline.
- b. Deadlines before which the work must be completed are only to be regarded as strict deadlines if this has been explicitly agreed in writing between the other party and Tinker.
- c. The work agreed upon can be adjusted in consultation; any changes need to be confirmed in writing and no later than four calendar months before the planned commencement date of the next phase.
- d. Tinker will make every effort to limit additional costs resulting from delays in the performance due to acts or omissions on the part of the other party, such as costs resulting from delays in the other party's planning. However, if these costs are incurred, the other party undertakes to reimburse Tinker in full. All this at a minimum of 50% of the reserved number of hours per phase.

**11. liability and indemnities**

- a. Tinker is not liable for damage not covered by Tinker's insurance policies.
- b. Tinker is not liable for damage sustained by the other party as a result of other party's failure to provide Tinker with documents, or because it provided documents that were incorrect, incomplete, or that were not provided on time.
- c. Tinker is not liable for indirect damage, including but not limited to loss of profits, lost savings, damage due to business interruption, and other consequential damage or indirect damage resulting from Tinker's failure to perform, to perform on time, or to perform properly.
- d. Tinker's liability is limited to compensation for the direct damage that is the direct result of an attributable shortcoming or coherent series of attributable shortcomings in the execution of the work. Direct damage includes but is not limited to the reasonable costs incurred to determine the cause and extent of the damage, the reasonable costs incurred to have Tinker's performance comply with the agreement, and the reasonable costs incurred to prevent or limit further damage. This liability is limited to a maximum of one time the fees for the work performed on other parts of the project concerned up to the moment in which the attributable shortcoming or shortcomings occurred. If the work performed on these other parts of the project covers a period longer than six months, the amount referred to above will be set at one time the fee for the work performed in the last six months on the other parts of the project.

- e. A coherent series of attributable failures in the performance will be regarded as a single attributable failure in the performance.
- f. The limitations of liability contained in this article do not apply if and in so far as it concerns intent or deliberate recklessness on the part of Tinker.
- g. The other party is obligated to take measures to mitigate the damage. Tinker has the right to undo or limit the damage by repairing or improving on the work carried out.
- h. The other party indemnifies Tinker against third-party claims due to damage caused by the fact that the other party has failed to provide Tinker with documents or has provided documents that are incorrect or incomplete.
- i. The other party indemnifies Tinker against claims by third parties (including but not limited to Tinker's employees or third parties engaged by Tinker) who have sustained damage in the execution of the project that is the result of the other party's acts or omissions or of unsafe conditions at its premises or in its organisation.
- j. If the client makes materials or parts available for further processing or assembly, Tinker or its subcontractor may be held responsible for their correct processing and assembly, but not for the materials or parts themselves.
- k. Tinker is not liable for any design carried out by third parties hired by the other party, nor for the specification of the dimensions and materials given. In such a case, Tinker is only responsible for the correct assembly, and it guarantees the soundness of the materials. However, this does not apply if the other party or third party has prescribed the use of a particular brand or specific treatment of the materials.
- l. The provisions in paragraphs a to k of this article see to both the contractual and the non-contractual liability of Tinker towards the other party.

## 12. warranty

- a. Since Tinker works with subcontractors, the warranty period is the warranty period of the subcontractor or the manufacturer's warranty on the equipment. After delivery, the warranty will be transferred to the other party. Tinker's involvement ends with the final invoice of its after-sales service. Further warranty agreements after completion of the work are to be concluded with third parties directly, as are service contracts. The other party will not be able to make any claims under the warranty before it has met its obligations to Tinker.
- b. After production and installation of the exhibition, pre-delivery will be effected on site. The snagging list will be drawn up on the spot and the remaining items will be delivered before the final delivery, within 2 weeks after pre-delivery at the latest, unless determined otherwise at the pre-delivery. After this, the final invoice will be charged.
- c. If the work is delivered in parts, the guarantee period for any part commences upon delivery.
- d. Complaints and defects must be reported to Tinker in writing within 10 working days of the final delivery.

## 13. confidentiality

- a. All information that the parties provide to each other and to third parties is confidential information. This information is subject to a duty of confidentiality. This information may only be used for the purpose for which it has been provided.

**14. right of suspension**

- a. After careful consideration of the interests involved, Tinker is authorised to suspend fulfilment of its obligations until such time as all due and payable claims against the other party have been paid in full.

**15. applicable law and choice of forum**

- a. The agreement is governed by Dutch law.
- b. Any disputes are subject to the jurisdiction of the competent court in Utrecht.

**16. nullity repair clause**

- a. Should any provision of these General Terms and Conditions or the underlying agreement prove wholly or partly void or invalid or unenforceable due to a statutory provision, court ruling, or otherwise, this will not affect the validity of the other provisions of these General Terms and Conditions or the underlying agreement.