

# GENERAL CONDITIONS FOR THE CARRYING OUT OF ASSIGNMENTS BY DELFT UNIVERSITY OF TECHNOLOGY

## Article 1. Definitions

In these general terms and conditions for assignments given to TU Delft, TU Delft shall be understood to mean the corporate body of the Delft University of Technology, established in Delft. The client shall be the natural person or corporate body who has given TU Delft an assignment.

## Article 2. Nature and scope of the assignment, quotation

- 2.1 The nature and scope of the assignment will be determined by the description of activities included in the quotation. Any changes, additions and increases agreed on later shall be considered to form part of this.
- 2.2 The quotation and the changes, additions and increases shall be accepted by means of a written acknowledgement from the client.
- 2.3 The quotation will be valid for a period of one month, counted from the date of dispatch of the quotation.

## Article 3. Price and payment

- 3.1 The price mentioned in the quotation shall be either a fixed price or a price determined on the basis of costing. Costing shall be done in accordance with the rates prevalent with TU Delft. These rates can be revised and applied on an annual basis.
- 3.2 If there is mention of costing in the quotation, a specification of the amount shall be given in the invoice if requested by the client at the moment the assignment is given.
- 3.3 All amounts mentioned in the quotation shall be exclusive of value added tax, unless explicitly stated otherwise.
- 3.4 TU Delft shall be entitled to invoice the client periodically for any activities performed. Likewise, TU Delft may demand partial advance payment or security for the payment up to the amount of the assignment. Invoices shall be sent to the client's address, unless otherwise agreed.
- 3.5 If the advance is not paid on time or the required security is not given on time, TU Delft cannot be held to either start or continue the activities.
- 3.6 The client shall be obliged to pay the invoice in euros within 30 days from date of invoice. If the client exceeds this term of payment he shall be obliged, after having been declared in default by TU Delft, to pay both the legal interest counted from the due date and the costs of collection out of court.

## Article 4. The carrying out of the assignment

- 4.1 The assignment shall be carried out within the (estimated) periods mentioned in the quotation, unless this appears later to be reasonably impossible. If and as soon as it appears that a period threatens to be exceeded, TU Delft shall inform the client and make, in consultation, further agreements in respect of this. The periods stated in the quotation shall never be considered to be deadlines, unless explicitly otherwise agreed.
- 4.2 The carrying out of the assignment shall be started as soon as the client has provided TU Delft with details, samples, equipment or other matters to be provided. If this is delayed, the period referred to in article 4.1 shall be extended because of this.
- 4.3 With assignments with a (estimated) duration of more than six months, an intermediate report can be issued, if requested by the client with the written acknowledgement of the quotation.

## Article 5. Transport, storage and return of matters (goods)

- 5.1 Any matters are to be returned at and collected from the address mentioned in the quotation, unless otherwise agreed.
- 5.2 The costs of loading and unloading, packaging and of transport of the matters contained in the agreement shall be invoiced separately. These costs are not included in the price.
- 5.3 Loading and unloading, packaging and transport of matters shall be at the client's expense and risk.
- 5.4 TU Delft shall keep matters, which have been delivered for the benefit of the assignment for a maximum period of one month after the end of the assignment, unless otherwise agreed. After this period TU Delft shall be free to take appropriate measures at the expense of the client.
- 5.5 TU Delft shall be entitled to keep details, equipment and/or other matters and the like, (jointly) owned by the client, as long as the client has not fulfilled his obligations.

## Article 6. Secrecy

- 6.1 TU Delft shall be obliged to observe secrecy for a maximum of five years from acquaintance, in respect of all information from the client with which it has become acquainted during the carrying out of the assignment and in respect of which it has been informed explicitly that secrecy is necessary for the client. This duty to secrecy shall not be applicable to:
  - a. details which are in the possession of TU Delft at the moment TU Delft is informed of these;
  - b. details which are generally known on the day on which TU Delft is informed of these;
  - c. details which have been legitimately obtained by TU Delft from third parties;
  - d. details which have become generally known after the date on which TU Delft has been informed of these, other than through the illegitimate action or negligence of TU Delft.
- 6.2 TU Delft and the client shall be obliged to observe secrecy in respect of the results of the assignment for six months after the (interim) report has been issued, unless otherwise agreed.
- 6.3 If misunderstandings arise with third parties as a result of the publication of the results of the assignment by the client, TU Delft shall be relieved of the duty to secrecy insofar as this is reasonably necessary in order to inform these third parties properly. Before doing so, TU Delft shall first inform the client.
- 6.4 The duty to secrecy of TU Delft shall not apply if and insofar as there is question of a conflict with the tasks and objectives of TU Delft as laid down in the law, or if there is question of a conflict with or by virtue of Ministerial Orders.
- 6.5 Nor shall the duty to secrecy apply to TU Delft if there is a danger for persons, matters, the environment or public health. TU Delft shall notify the client of this.

## Article 7. Rights to results

- 7.1 The results of the assignment shall be available to the client for use in his own company. This right shall be exclusive during the secrecy period referred to in article 6.2, subject to the stipulations in article 7.2. The intellectual proprietary rights and the industrial proprietary rights are held by TU Delft. TU Delft may transfer these rights to the client on conditions to be agreed on later.
- 7.2 During the period of secrecy referred to in article 6.2, TU Delft shall be entitled to use the results for its own

research and teaching activities, unless the client's interests would be prejudiced due to this. The client shall have to make a reasonable case for this. After the period referred to in article 6.2, TU Delft shall be entitled to use the results for third parties and have them used by third parties, unless the client's interests would be seriously prejudiced because of this. The client shall have to make a reasonable case for this.

7.3 In the cases referred to in article 7.2, a suitable arrangement shall be made in consultation after the client has made a reasonable case for the fact that his interests are prejudiced or seriously prejudiced.

7.4 If the results have been laid down in the form of a report and the like, then the report, etc., shall be the property of the client, subject to TU Delft's copy rights.

#### **Article 8. Publication**

8.1 Reports and the like shall only be published by the client literally, in their entirety and stating the name of TU Delft, unless permission for a different form of publication has been obtained in writing.

8.2 TU Delft shall be entitled to publish the methods and/or techniques used by it after the period of secrecy referred to in article 6.2 has expired and to use these for teaching and research purposes.

#### **Article 9. Liability**

9.1 TU Delft shall be held liable for any damage suffered by the client as a result of TU Delft's non-performance, not exceeding, however, the amount due by the client in accordance with the amount of the quotation.

9.2 If the client uses or applies any result obtained through TU Delft, or gives third parties the opportunity to use or apply them (or have them used or applied), the client shall indemnify TU Delft against any claims for his part and claims from third parties due to damage, unless this damage is the result of the fault or gross negligence of TU Delft.

9.3 The client shall be held liable for any damage suffered by TU Delft and/or persons called in by it during the carrying out of the assignment on the client's premises, unless this is due to TU Delft's fault or that of the persons called in by it.

9.4 TU Delft shall not be held liable for any damage caused by defects in the matters supplied to TU Delft, which have been passed on by TU Delft to the client, unless and insofar as TU Delft is able to hold its supplier liable for this damage.

#### **Article 10. Force Majeure (non-accountable faults)**

TU Delft shall not be held liable if it is not able to fulfil its obligations to the client or to fulfil these on time as a result of force majeure. Force majeure shall include circumstances which prevent the normal performance of activities.

#### **Article 11. Non-performance (accountable faults)**

If the client or TU Delft would not fulfil its obligations under this agreement, or not on time or completely, the other party shall fix a reasonable term for the party in default in writing, within which the party in default shall have to fulfil its obligations as yet. If the party in default has not fulfilled its obligations after the fixed term has expired, then the other party shall be entitled either to claim fulfilment, or to cancel the agreement in whole or in part, without taking the matter to court and without further notice of default, without prejudice to its rights to compensation up to the amount referred to in the quotation.

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

12.1 The Dutch law shall be applicable to all agreements between the client and TU Delft.

12.2 All disputes arising from the assignment shall be settled in the Netherlands and by the competent judge.

12.3 If a dispute arises between the parties about the establishment, the interpretation, the execution or the incorrect or untimely execution of an agreement entered into by the parties or another legal relationship, or if such dispute exists in the opinion of one of the parties, the parties shall be obliged to try and reach agreement through negotiations, before submitting the dispute to the civil judge.

12.4 The parties may decide, with mutual assent, to deviate from the stipulation in article 12.2, and to submit the dispute to arbitration in the Netherlands.

#### **Article 13. Revision of general terms and conditions**

13.1 It is possible that these general terms and conditions are revised by TU Delft. The coming into force shall be stated with the publication or filing of the terms and conditions.

13.2 The revised terms and conditions shall be applicable from the date of coming into force to quotations not yet accepted.

#### **Article 14. Visits to TU Delft**

14.1 If the client and/or his staff visit the premises of TU Delft, or the buildings of TU Delft, they shall be obliged to observe the rules prevalent with TU Delft.

14.2 If requested, the client and/or his staff shall sign a statement to this effect.

#### **Article 15. Complaints**

Any claims from the client against TU Delft which are related to the carrying out of the assignment shall lapse if they are not put forward within six months after the assignment has been carried out. TU Delft shall be notified in writing.

#### **Article 16. Final provisions**

16.1 These terms and conditions can only be deviated from if agreed by the parties in writing.

16.2 These general terms and conditions have come into effect on 1 January 1992. They have been filed with the Chamber of Commerce and Industry for Delft and environs.