

Article 1 – DEFINITIONS**Service(s)**

The activities to be performed by Geometius for the benefit of a specific need of the Client, not being works or Deliveries.

Geometius

The private company with limited liability Geometius B.V., having its registered office and its place of business in (1323 VA) Almere at the Operetteweg 4A.

Good(s)

Any and all goods and proprietary rights within the meaning of Section 1 of Book 3 of the Dutch Civil Code.

Delivery (Deliveries)

The goods to be delivered by Geometius on the basis of the Agreement for the benefit of the Client.

Offer(s)

An offer within the meaning of the Dutch Civil Code.

Client

The party who awarded the contract for the Delivery of Services and/or Goods to Geometius and concludes an Agreement for that purpose with the same.

Agreement

The agreement concluded by and between Geometius and the Client with regard to the Goods and/or Services to be delivered by Geometius.

Parties

The Client and Geometius together.

Performance(s)

The Delivery (Deliveries) and/or Services to be performed;

In Writing

Through a document signed by both Parties or by letter or email message or any other technical manner stipulated by and between the Parties.

Indirect damages

Consequential damages, lost profit, lost savings, and losses due to business interruptions.

Article 2 – GENERAL

1. These general terms and conditions are applicable to any and all proposals, Offers, and Agreements with regard to the Delivery of Goods and/or Services by Geometius, such with the express exclusion of the (general) terms and conditions applied by the Client, unless the Parties stipulate otherwise in writing.
2. Provisions deviating from these terms and conditions are only applicable if the Parties expressly stipulate this in writing.
3. If a provision of these general terms and conditions is null and void or nullified then the other provisions shall remain in full force and effect and the Parties shall enter into discussions in order to agree on a new provision (new provisions) to replace the null and void or nullified provision(s), in the course of which the objective and the scope of the null and void or nullified provision(s) are observed as much as possible.
4. By submitting the Offer the Client expressly rejects the applicability of its own (general) terms and conditions.
5. These terms and conditions were filed with the Chamber of Commerce.
6. The lastly filed version respectively the version that applied at the time of the conclusion of the Agreement is always applicable.

Article 3 - PROPOSALS, OFFER(S)

1. Each and every proposal and Offer submitted by Geometius, in any form whatsoever, is subject to contract.
2. A proposal and/or Offer only regards a price indication in order that the Client cannot derive any rights from it. After the submission of a proposal and/or Offer Geometius can, at the request of the Client, submit a definitive Offer containing a period for acceptance. After the expiry of the period (term of validity) indicated in the offer, rights can no longer be derived from the proposal made in the Offer.
3. Data included in software and/or other programs, catalogues, images, drawings, measurements, weights, and other (technical) information of Geometius, whether or not originating from third parties, do not have binding effect.

Article 4 - CONCLUSION OF THE AGREEMENT

1. An Agreement between the Parties is concluded after the Client has accepted the proposal / Offer of Geometius In Writing.
2. If Geometius delivered Goods and/or Services to the Client without (further) written documentation then the content of the proposal / Offer, together with the content of these terms and conditions, shall be decisive for the content of the Agreement of the relevant delivered Goods and/or Services.
3. Oral promises by and arrangements with employees of Geometius shall only have binding effect on Geometius to the extent that they were confirmed by the same in writing.

Article 5 – PRICES

1. The prices quoted by Geometius are quoted in euros and exclusive of VAT, import duties or other taxes, levies or obligations, and exclusive of the costs of loading and unloading, postal charges, shipment costs, transport charges, and cash on delivery charges, costs of third parties and insurance, unless the Parties stipulate otherwise in writing. The prices quoted by Geometius are applicable to Delivery ex works / warehouse and are exclusive of assembly and commissioning charges.
2. If official changes or changes due to changed sales conditions of third parties occur after the date of conclusion of the Agreement - even if this takes place as a result of foreseeable circumstances - then Geometius shall be entitled to increase the price stipulated by and between the Parties accordingly.

Article 6 - PAYMENT

1. Geometius invoices the Client for delivered Goods and/or Services. Geometius is entitled to send partial invoices to the Client. Any and all payments to Geometius must be made to the bank account number designated by Geometius. If the Parties do not stipulate otherwise, the payment of the invoices must take place within 30 days after the date of the invoice. New customers / clients of Geometius must pay the full invoice amount prior to the Delivery of the Goods and/or Services by Geometius to them, unless the Parties stipulate otherwise in writing.
2. Payment is deemed to have taken place at the moment that the payable amount has been credited in full to the bank account number designated by Geometius and takes place without any deduction or settlement. If the Client does not pay within the stipulated periods then the Client shall be in default by operation of law. As the occasion arises, Geometius shall be entitled to, without any prior notice of default being required, charge the statutory (commercial) interest rate applicable in the Netherlands to the Client as well as any and all judicial and extra-judicial costs related to the collection of its claim. The extra-judicial costs arrive at 15% of the claimable amount, with a minimum of € 250.00.
3. If the Client is in default pursuant to the provisions set forth in paragraph 5 of this article then from the said moment any and all claims of Geometius outstanding with the Client immediately fall due.
4. Geometius is always entitled to require security from the Client for the payment of its invoices.
5. Geometius is entitled to suspend its Performance in the event that the Client fails to provide the proper security requested by Geometius.
6. Objections with regard to the invoices of Geometius must be communicated by the Client in writing and in a substantiated manner within 14 days after the invoicing. The objections of the Client against an invoice of Geometius shall not affect the obligation of the Client to provide for payment in full of the invoice of Geometius in a timely fashion. After the expiry of the period for objections as intended in this article, the Client has forfeited its rights to object to the invoice. Unless the Client submits evidence to the contrary, the data from the administration of Geometius are decisive.

Article 7 - DELIVERY AND ACCEPTANCE

1. The delivery periods specified by Geometius in the Offer and/or Agreement are merely of an indicative nature and cannot be qualified as a fatal deadline. The Client cannot derive any rights from the periods specified by Geometius. An overstepping of (any) period(s) by Geometius shall by no means release the Client from its (payment) obligations in respect of Geometius.
2. In no instance shall the delivery period start prior to the moment that Geometius is in possession of may and all documents and data required for the Contract, including but not limited to contract numbers, purchase reference, and the like, such at the discretion of Geometius.
3. The Delivery of Goods shall take place at the delivery address specified by the Client by means of the manner of transport, forwarding, packaging, etc. to be determined by Geometius, without the same resulting in any liability on the part of Geometius.
4. The Delivery of the Goods is deemed to have taken place and to have been accepted by the Client as soon as the Goods were delivered at the delivery address specified by the Client and the (delivery) note was signed by or on behalf of the Client. If delivery of the Goods was not taken by the Client in a timely fashion then they are stored by Geometius at the risk and expense of the Client.
5. If the Client opts for picking up the Goods then the Delivery is deemed to have taken place at the moment that the Client picked up the Goods.
6. Geometius is entitled to deliver the Goods in instalments.
7. In case of late Delivery by Geometius the Client must give Geometius written notice of default and grant Geometius a reasonable period to yet provide for compliance.
8. In the event as intended in paragraph 7 of this article, the Client shall only be entitled to rescind the Agreement to the extent that it has not been complied with and the preservation of the part of the Agreement that has not been complied with yet can reasonably not be required of the Client.
9. Geometius is entitled to, if it is prevented from delivering the Goods and/or Services in their entirety and/or in a timely fashion due to force majeure, suspend the implementation of the Agreement and/or rescind the Agreement either in whole or in part and claim payment for the Goods and/or Services that were delivered, without Geometius being held to pay any compensation and/or provide any warranty.
10. If the Delivery of Goods and/or the performance of Services is delayed on account of circumstances, other than force majeure, that cannot be blamed on Geometius then the stipulated price shall be invoiced by Geometius and it must be paid by the Client as if Delivery took place in a timely fashion. Geometius is entitled to offer the Client a temporary alternative, rental or otherwise, for the period up to the Delivery, the latter at the expense of the Client, unless stipulated otherwise.
11. If Geometius, in the event as intended in paragraph 10 of this article, is compelled to take back Goods or to store these Goods then Geometius shall be entitled to charge the Client a monthly amount for this equal to [percentage]% of the invoice amount payable by the Client.

Article 8 – TRANSFER OF RISK

1. Immediately after the Goods are deemed to have been delivered within the meaning of article 7, the Client bears the risk for any and all direct and indirect damages that may be inflicted on or by this product.
2. If Geometius offered the Goods to the Client for delivery, but the Client does, for any reason whatsoever that cannot be blamed on Geometius, not take delivery of the relevant Goods then the Goods to be delivered shall be at the risk and expense of the Client from the moment the Goods were offered for delivery, without prejudice to the other rights vested in Geometius.

Article 9 – OBLIGATIONS OF THE CLIENT The Client shall lend Geometius any and all cooperation and facilities that are required and common for the implementation of the Agreement. The Client shall take appropriate measures to prevent damage to instruments,

systems, other goods or persons. The Client shall fully inform the employees of Geometius on location of safety rules and other precautionary measures and of the hazardous areas and substances present there.

1. Damages that arise due to failing or late compliance with the provisions set forth in paragraph 1 of this article shall be at the expense of the Client.
2. If due to a cause that can be blamed on the Client Geometius cannot commence its activities at a time stipulated by and between the Parties or cannot continue them then the waiting time and/or the costs incurred in vain resulting from the same shall be passed on to the Client.

Article 10 - QUALITY

1. The Goods delivered by Geometius are deemed to be solid if they comply with the statutory quality requirements that, at the time of conclusion of the Agreement, are applicable at the location of the establishment of Geometius, and also if the Goods correspond with the specifications expressly stipulated by and between the Parties.
2. If the Client picks up the Goods at Geometius, as intended in paragraph 5 of article 7 of these terms and conditions, then Geometius shall give the Client the opportunity of inspecting the Goods at Geometius. In the aforementioned instances complaints regarding the quality of the Goods are not handled by Geometius if the Client does not inspect the Goods at Geometius or in the presence of Geometius.
3. With regard to the Goods delivered by Geometius the Client is held to comply with any and all obligations deriving from the Agreement, the generally accepted standards, and the rules that are applicable by or pursuant to the law. The client indemnifies Geometius against any and all claims of third parties, including official authorities, if and to the extent that the Client does not comply with the aforementioned obligations.

Article 11 – HIRING OF THIRD PARTIES

1. Geometius is entitled to hire third parties for the performance of its activities and/or services or other obligations vested in the same.
2. If and to the extent that a third party uses general terms and conditions that are applicable and/or the third party is bound by general terms and conditions or regulations that are applicable to the mutual legal relationship between the said third party and Geometius then the relevant general terms and conditions are also applicable in the legal relationship between Geometius and the Client. As the occasion arises, the other provisions of the general terms and conditions of Geometius remain in full force and effect.

Article 12- WARRANTY

1. The warranty period of the Goods delivered by Geometius and/or of the installation and assembly activities is six months.
2. If the period of the manufacturer's warranty for the delivered Goods differs from the aforementioned period then the warranty period used by the manufacturer shall apply.
3. The warranty period takes effect on the day of Delivery.
4. Geometius shall only be liable on account of the warranty for defects of which Geometius was informed within the warranty period and of which the Client evidences that they arose within the warranty period as a direct result of the inferior manufacturing and/or the use of inferior materials.
5. The obligations of Geometius on account of the said warranty shall not extend beyond the free replacement or repair of the defective product, such at the discretion of Geometius.
6. Costs (e.g. transport charges) associated with repair / replacement on location are, barring the labour costs of the relevant repair / replacement, always at the expense of the Client.
7. The Client always requires the express written consent of Geometius for repair / replacement and/or maintenance by third parties, subject to forfeiture of the warranty.
8. Defects that are the result of normal wear and tear, injudicious treatment or injudicious or incorrect maintenance or repairs / replacements and/or maintenance and the like by the Client or by third parties hired by the Client shall not fall under the warranty.

Article 13 – COMPLAINTS AND CLAIMS

1. The Client is held to immediately check the Goods delivered by Geometius on completeness and solidity, however at the latest within 48 hours after the Delivery has taken place.
2. The Client can no longer rely on the fact that the Goods delivered by Geometius do not correspond with the Agreement and/or the user and quality requirements reasonably imposed on the same, if the Client does not forthwith inform Geometius accordingly in writing, however at the latest within 14 days after the Delivery.
3. If the Client complains about the implementation of the Agreement in a timely, correct and rightful fashion then Geometius shall, at its sole discretion, either repair the defect free or charge or give the Client a discount on the stipulated fee for the activities. As a result of delivery of one of the said performances Geometius shall by no means be liable to pay additional compensation (for damages) to the Client. The Client is held to give Geometius the opportunity to carry out the above.
4. A complaint (complaints) about defects that cannot be observed externally and about defects of which the Client demonstrates that it was not able to observe them despite a thorough and expert investigation within the period as intended in paragraphs 1 and 2 of this article must be reported to Geometius in writing within 30 days after the Client has discovered or should reasonably have discovered the defects.
5. In case of a complaint the Client shall immediately return the relevant goods to Geometius at its own risk and expense. Geometius is entitled to conduct its own investigation into the nature, scope and cause of the alleged defects respectively the shortcomings, in which instance the Client shall be held to lend any and all cooperation required by Geometius in the same, the latter subject to forfeiture of the right to complain.
6. Geometius is entitled to conduct its own investigation into the nature, scope and cause of the alleged defects respectively the shortcomings, in which instance the Client shall lend any and all cooperation required by Geometius in the same, failing which the client shall no longer be able to enforce any claims in respect of Geometius in connection with the alleged defects respectively the shortcomings.
7. The liability of Geometius in case of a visible or invisible defect shall never result in an obligation on the part of Geometius other than (i) a refund of the purchase price, or (ii) repair, or (iii) (re-)delivery of a solid item, all at the discretion of Geometius.
8. Complaints and claims shall not release the Client from obligations vested in the same that derive from the Agreement.

Article 14 – LIABILITY

1. The liability of Geometius shall be limited to compliance with what it accepted pursuant to the warranty as intended in article 12. Each and every further liability, for direct or for indirect damages, costs and interests or for (in-)direct damages caused by an employee of Geometius or by a third party hired by Geometius is expressly excluded, barring in case of intent and/or gross negligence.
2. The Client indemnifies Geometius against each and every potential liability in connection therewith in respect of third parties deriving from or related to a Delivery of Goods and/or Services performed by Geometius for the benefit of the Client.
3. In case the exclusion of liability as intended in paragraphs 1 and 2 of this article is declared to be null and void, either in whole or in part, by a relevantly competent court. Geometius shall only be liable for demonstrably incurred direct damages, and the said liability for these direct damages shall never exceed the invoice amount excluding VAT charged to the Client by Geometius, minus the amounts already invoiced and yet to be invoiced, at least up to the maximum level of the amount that is paid pursuant to the liability insurance. In case of partial deliveries the obligation of Geometius shall moreover be limited to the price related to that part of the Agreement with which the claim is related closest.
4. If two or more Clients jointly concluded an Agreement with Geometius then they are jointly and severally liable in respect of Geometius.

5. Geometius shall not be liable for errors and/or shortcomings in respect of the delivered Goods and/or Services if the said errors and/or shortcomings derive from acts and/or conduct of the Client and/or third parties hired by or on behalf of the Client.

Article 15 – FORCE MAJEURE

1. Geometius shall not be liable for damages that the Client may incur in the event that a Performance by Geometius is prevented, hindered, delayed or can no longer be delivered by Geometius on a commercial basis as a result of circumstances and the relevant consequences that are beyond the control of Geometius, foreseeable or unforeseeable, including those that would normally be at the expense of Geometius (force majeure).
2. In case of temporary force majeure, Geometius shall be entitled to, at its sole discretion, change the period of Delivery or cancel the Agreement without Geometius being liable to pay any compensation to the Client.
3. For the purpose of these terms and conditions force majeure is understood as a shortcoming that cannot be blamed on Geometius and that should neither be at its expense by law, pursuant to a legal act or according to generally accepted practice, including but not limited to third parties who refuse to cooperate, an accident, industrial action, fire, (armed) robbery, blockade, war, riots, occupation, official measures, (large-scale) (natural) disasters, nuclear reactions, transport difficulties, delayed Delivery of Goods, failure of means of communication (telephone, email, fax, and the like), failure (temporarily or for any reason whatsoever) of the electrical and/or electronic infrastructure (computers, and the like), destruction and/or disappearance of the electronic data and/or fraudulent use of the same by third parties, other business interruptions and other causes beyond the control of Geometius.

Article 16 – INTELLECTUAL PROPERTY

1. The Client is not allowed to disclose, copy or duplicate the data as intended in article 3 paragraph 3 or to make them available to third parties or to sell, lease or alienate (the user right of) the software and/or other programming or to transfer it by way of security or to surrender it to third parties or to change it.
2. The source code of the programming is not made available to the Client.
3. The title of any and all industrial and intellectual property with regard to the software and/or other programming remains vested in Geometius. The Client is not allowed to remove indications of intellectual property.
4. The Client is familiar with the fact that the software and/or other programming contain confidential information and business secrets of Geometius.
5. Geometius is allowed to take technical measures to protect the software and/or other programming.

Article 17 – RESERVATION OF TITLE

1. Delivered Goods remain the property of Geometius up to the moment that any and all claims in respect of the Client regarding the said Goods were paid in full.
2. As long as the title of the delivered Goods has not transferred to the Client, the Client shall not be allowed to pledge or to encumber the Goods with any other right for the benefit of a third party.
3. In case of non-compliance by the Client with an obligation in respect of Geometius, the latter shall be entitled to, without any prior notice of default, take back the Goods after which the Client shall be credited for the market value of the Goods, which shall in no instance whatsoever be higher than the original purchase price, minus the costs associated with taking back the Goods and without prejudice to any and all rights vested in Geometius, including but not limited to the right to set-off in respect of damages potentially incurred by Geometius.

Article 18 – RIGHT OF PLEDGE AND RIGHT OF RETENTION

A right of pledge for the benefit of Geometius is established on any and all Goods that Geometius has or shall have in its possession, on any account whatsoever, and Geometius shall be entitled to a right of retention pursuant to Section 290 of Book 3 of the Dutch Civil Code by way of security for any and all claims that Geometius has and/or shall have in respect of the Client.

Article 19 – SERVICES

In particular in the instances where Geometius commits to deliver a Performance of an intangible nature, Geometius shall only be held to deliver the best possible performance, however it cannot guarantee the realisation of the result proposed by the Client. Hence, Geometius is subject to a best efforts obligation and not a result obligation in relation to the Delivery of Services.

Article 20 - SUSPENSION / RESCISSION

1. Geometius is entitled to suspend or discontinue the Delivery of Goods and/or Services if the Client does not comply with a (payment) obligation that derives from an Agreement between the Parties.
2. In the event that the Client is in default, including but not limited in the instances as intended in paragraph 3 of this article, Geometius shall be entitled to rescind the Agreement. As the occasion arises, the Client shall, in consideration of the provisions set forth in these general terms and conditions, be held to compensate Geometius for the costs incurred and the amounts advanced by Geometius, which shall in that case immediately fall due and cannot be used to set off any (alleged) claim of the Client in respect of Geometius. This does not affect the right of Geometius to claim compensation for damages, including but not limited to the positive contract interest.
3. Geometius is entitled to, without a notice of default being required, to rescind the Agreement with immediate effect if:
 - a. The Client or the party who warrants the obligations of the Client or provided securities is declared to be insolvent, proceeds with liquidation, discontinues the business operations or adopts a resolution regarding liquidation discontinuation or files a winding-up petition or an application for suspension of payment;
 - b. The Client changes its legal personality;
 - c. An attachment is imposed at the expense of the Client.
4. In case of (extra-)judicial rescission of the Agreement on account of an imputable shortcoming on the part of Geometius Goods and/or Services that have already been delivered by Geometius shall not be undone. As the occasion arises, the amounts payable by the Client at the time of the rescission immediately fall due and cannot be used to set off any (alleged) claim of the Client in respect of Geometius.

Article 21 – TRANSFER OF RIGHTS

1. The Client is, without the prior written consent of Geometius, not allowed to transfer its rights and/or obligations pursuant to the Agreement to a third party.

Article 22 – MAINTENANCE AGREEMENT

1. Only following a warranty period or after a maintenance overhaul approved by Geometius can a maintenance agreement be concluded.
2. A maintenance agreement can take effect at any time and initially has a term of one year, unless the Parties stipulate otherwise.
3. The maintenance agreement is every time automatically renewed for one year, unless Geometius informs the other party in writing at the latest two months prior to the expiry of the maintenance agreement that it does not intend to renew the maintenance agreement, or if stipulated otherwise.
4. Annually the Parties agree by mutual consent on what dates Geometius shall carry out the periodic maintenance overhauls.
5. The maintenance does not include troubleshooting due to (i) inaccurate or injudicious use by the Client or by third parties hired by the Client, (ii) peripheral equipment not delivered to the Client by Geometius, or (iii) repairs, changes or additions to the instruments carried out by the Client or by third parties hired by the Client.

Article 23 – FINAL PROVISIONS

1. These general terms and conditions are also made available in the English language. In case of a dispute about the content and/or the meaning and/or the interpretation of a provision, the Dutch content and/or meaning and/or interpretation shall always be decisive.
2. Dutch law is applicable to any and all agreements by and between Geometius and the Client. The applicability of the Vienna Sales Convention is excluded.
3. Any and all disputes between the Parties that derive from an Agreement or from these general terms and conditions shall be brought to the cognisance of the relevantly competent Dutch court. If the law does not provided for the jurisdiction of a Dutch court, then the court in the district where Geometius holds its corporate seat shall exclusively be competent.