

# GENERAL TERMS AND CONDITIONS

## POSTHUMA PARTNERS

### 1 Definitions

General Terms and Conditions:	These General Terms and Conditions of Posthuma Partners
Posthuma Partners:	Posthuma Partners Advies B.V.
Customer:	The natural or legal person that makes a request to Posthuma Partners to perform certain activities, a customer of Posthuma Partners and the natural and legal person with which Posthuma Partners enters or has entered an agreement

Pp

### 2 Scope

- 2.1 The General Terms and Conditions shall apply to all offers and agreements under which Posthuma Partners supplies goods and/or services to Customer of whatever nature, even if such goods or services are not further specified herein.
- 2.2 Any applicability of any terms and conditions of purchase or otherwise of Customer is hereby explicitly rejected.
- 2.3 Deviations from and additions to offers of and agreements with Posthuma Partners shall only be valid if expressly agreed upon in writing.
- 2.4 The Customer with whom Posthuma Partners has entered into an agreement to which the General Terms and Conditions apply, agrees that the General Terms and Conditions are also applicable to future agreements between Customer and Posthuma Partners.
- 2.5 Posthuma Partners has the right to alter the General Terms and Conditions. These alterations will also apply to agreements that have already been entered into with Customer. Alterations will enter into force thirty days after announcement.
- 2.6 In the event nullity or annulment of any provision of these General Terms and Conditions, the other provisions hereof shall remain in full force and effect and Posthuma Partners and Customer shall consult together in order to agree on new provisions to replace the provisions that are null or, as the case may be, annulled, duly observing as much as possible the object and purport of the provision that is null or annulled.

### 3 Information, offers and agreement

- 3.1. No rights can be derived from brochures, catalogues or other information material circulated by Posthuma Partners. No rights can be derived from information given by employees of Posthuma Partners unless confirmed in writing in a tender, order acknowledgement or agreement.
- 3.2. Posthuma Partners' tenders and offers are free of engagement, hold for a period of two months and may be revoked by Posthuma Partners within five working days after receipt of acceptance.
- 3.3. Assignments to Posthuma Partners and acceptance of Posthuma Partners' offers by Customer shall be irrevocable.

Pp

### 4 Price and payment

- 4.1. All prices stated by or agreed upon with Posthuma Partners are prices exclusive of value added tax (VAT) and any other possible levies imposed by the authorities, unless indicated otherwise by Posthuma Partners. The levies imposed by the authorities will immediately be passed on to Customer (inclusive VAT, if applicable).
- 4.2. Regarding agreements with a duration of more than one year, Posthuma Partners shall be entitled to yearly adjust the agreed prices in accordance with price increasing developments and based upon the CPI (Customer Price Index). To determine the CPI, the average over the period October (n-2) to September 30 (n-1) is used, with a minimum of 0%. The index will be communicated in writing before the end of each year and enters into force January 1<sup>st</sup> of each calendar year.
- 4.3. All invoices shall be paid by the Customer in accordance with the terms of payment set forth on the invoice. Failing any specific terms, Customer shall pay within fourteen days from the invoice date. Complaints against invoices shall be made known to Posthuma Partners within five working days after receipt of the invoice. Filed complaints will be dealt with immediately, but these complaints do not suspend the obligation of payment. If complaints appear to be justified, Posthuma Partners will adjust the invoice accordingly.
- 4.5. In the event that Customer fails to pay the amounts due within the agreed period, legal interest shall be due by Customer on the outstanding amount without any notice of default being required. Should Customer, after notice of default, fail to settle the claim, the same may be placed out of hand, in which case Customer shall be liable in full, in addition to the total amount then due, for any legal and non-legal expenses including any fees charged by external experts in addition to the costs accessed in court, relating to the collection of this claim or other enforcement of rights, the amount of which is fixed at 15% at least of the total amount.

- 4.6. The Customer waives any right to set off amounts payable by him against amounts owed to him by Posthuma Partners.

## 5 Periods for performance

- 5.1. All periods for performance of the agreement stated or agreed on are target periods only. Unless agreed otherwise or from the nature of the agreement follows otherwise, any term for performance commences one day after the agreement has been entered into, on the understanding that in the event the Customer needs to render assistance to the performance, the term will not take effect than after this assistance has been rendered.
- 5.2. The mere fact of any stated period being exceeded shall not constitute default made by Posthuma Partners. Posthuma Partners shall not be in default until the Customer has given it written notice of default stating a reasonable period in which to remedy the failure and Posthuma Partners continues to fail performance even after such period and such is attributable to Posthuma Partners. Rescission is only permitted to the extent that the Customer cannot reasonably be expected to keep the agreement in existence.

Pp

## 6 Confidential information

Each of the parties guarantees that all information of confidential nature received from the other party before and after the conclusion of the agreement shall remain confidential. Information shall in any event be considered confidential if so designated by either of the parties.

## 7 Cooperation by Customer

- 7.1. Customer shall always provide Posthuma Partners in time with any data or information useful and necessary to properly execute the agreement, and always provide every cooperation.
- 7.2. Customer shall be responsible for the use and application, in his organisation, of the equipment and software and of the services to be provided by Posthuma Partners as well as for adequate system management.
- 7.3. If it is agreed that Customer shall make available software, materials or data on data carriers, these shall contain the necessary specifications.
- 7.4. In case any employees of Posthuma Partners or third parties called in by Posthuma Partners perform work at Customer's location, Customer shall arrange, free of charge, for the facilities reasonably required by such employees.

## 8 Intellectual or industrial property rights

- 8.1. All intellectual or industrial property rights to any software equipment or other materials developed or provided under the agreement, such as analyses, formulas, arithmetic / algorithm models, designs, documentation, reports, offers and any preparatory material belonging thereto, whether or not relating to actuarial subjects shall be owned solely by Posthuma Partners, unless specifically agreed otherwise by parties in writing. Customer shall not modify, adapt, multiply or make copies of the software (source code) or any materials to which Posthuma Partners owns the intellectual or industrial property rights as meant in this article, except to the extent such rights of use and powers as are explicitly granted hereunder and unless to the extent mandatory law provides otherwise.
- 8.2. Customer is aware that the software, equipment and other materials provided contain confidential information and trade secrets of Posthuma Partners. Customer undertakes to keep such software, equipment and materials secret and not to disclose these to third parties or permit third parties to use the same, and to use them only for the purpose for which they were placed at his disposal.
- 8.3. Customer is not permitted to remove from or make changes in the software, equipment or materials any designation concerning copyrights, trademarks, tradenames or other intellectual or industrial property rights, including any indications concerning the confidential nature and secrecy of the software.

Pp

## 9 Liability and indemnity

- 9.1. Posthuma Partners accepts liability to pay damages to the extent as provided in this article 9.
- 9.2. Posthuma Partners' total liability in respect of a failure to perform the agreement as is attributable to the same, shall be limited to making compensation for any direct loss up to the amount of the total price agreed (not including VAT) in such agreement

By "direct loss" shall exclusively be understood:

- a. the reasonable expenses which Customer has to incur to have Posthuma Partners' performance fulfil the agreement. However, such loss shall not be compensated if Customer has rescinded the agreement;
- b. the reasonable expenses incurred in determining the cause and extent of the loss insofar as such determination relates to any direct loss within the meaning of these General Terms and Conditions;

- c. reasonable expenses incurred in preventing or reducing a loss insofar as Customer proves that such expenses have resulted in a reduction of any direct loss within the meaning of these General Terms and Conditions.
- 9.3. Posthuma Partners' liability for indirect loss, including consequential loss, loss of profits, lost savings and loss caused by interruption of operations is excluded.
- 9.4. Posthuma Partners' liability in respect of failure to perform an agreement as is attributable to the same, shall not arise unless Customer forthwith and properly declares Posthuma Partners in default in writing, stating a reasonable period in which to remedy the failure, and Posthuma Partners continues to fail in the fulfilment of its obligations even after such period and such is attributable to Posthuma Partners. The notice of default must specify the failure in as much detail as possible, so that Posthuma Partners will be able to react adequately.
- 9.5. No right to damages shall ever arise unless Customer reports the loss to Posthuma Partners in writing as soon as possible after it has occurred.
- 9.6. Customer shall indemnify Posthuma Partners against all claims of third parties, including but not limited to claims in respect of product liability as a consequence of any defect in the product or system which was supplied to a third party by Customer and partly consisted of equipment, software or other materials supplied by Posthuma Partners, except if and insofar as Customer proves that the damage was caused by such equipment, software or other materials.

Pp

## 10 Force majeure

- 10.1. In the event Posthuma Partners fails to perform an obligation towards the Customer, such failure cannot be attributed to Posthuma Partners if the performance of the obligation is made impossible or is hindered as a consequence of circumstances, whether or not foreseeable, beyond control of Posthuma Partners, including but not limited to: war or similar situations, riot, sabotage, boycott, strike, occupation, shortage of materials, machine damage, large-scale absence through illness of employees of Posthuma Partners, failure of performance of suppliers and/or transporters, disturbances of telecommunications networks or telecommunication companies, measures by the Government (including Foreign Government) – such as transportation, environment, or production measures – natural disasters, lightning stroke, fire and explosion.
- 10.2. In the even a situation described in article 10.1 occurs, Posthuma Partners has the right to suspend performance or, at its sole option, terminate the agreement in whole or in part by means of a written statement to that effect, without being obliged to pay any damages.

## 11 Term, claim ability and termination

- 11.1. After expiration of the term of the agreement between Posthuma Partners and the Customer the agreement will be automatically renewed for the same period, with a minimum of one year, for which the agreement was originally entered into, unless the agreement is terminated by giving three months written notice before the end of the current term or unless stipulated otherwise by Posthuma Partners.
- 11.2. All that Customer is due to Posthuma Partners by virtue of the agreement, shall become immediately payable when:
- a. the Customer files for suspension of payments for his own bankruptcy, or has been declared bankrupt;
  - b. the Customer decides to wholly or partly discontinue its business or to transfer its business;
  - c. the Customer has been dissolved;
  - d. the Customer did, more than twice, not pay on time.
- If one of these circumstances occur Posthuma Partners is also entitled to immediately rescind all agreements with the Customer by written notice without prejudice to all other rights of Posthuma Partners such as the right to be paid expenses, damages and interests.

Pp

## 12 Governing law and disputes

- 12.1. All agreements and possible other legal relationships between Posthuma Partners and the Customer shall be governed by Dutch law.
- 12.2. Any disputes that may arise between Posthuma Partners and Customer in connection with any agreement concluded by parties, including but not limited to the existence and validity of agreements, shall be resolved by Dutch Court.