



# GENERAL TERMS AND CONDITIONS

## 1 GENERAL

- a) These general terms and conditions apply to all work, tenders, project proposals, and service agreements between Effectory B.V. ('**Effectory**') and its Client(s) and/or their legal successor(s) ('**Client**'), including follow-up assignments and new assignments.
- b) Client's applicable purchasing terms and conditions or other general terms and conditions are expressly rejected.

## 2 INTELLECTUAL PROPERTY

- a) Independent of how Effectory offers its services, it is the exclusive owner of all (intellectual property) rights and related rights (including, but not limited to: copyrights, trademark rights, drawing and design rights, database rights, trade name rights and rights on know-how) related to the services of Effectory and the Materials (of whatever nature) made available to Client, such as but not limited to project and collaboration proposals, questionnaires, reports, reporting templates, (research) methods, software, documentation, analyses, systems, models, techniques, instruments, designs, manuals and other data (hereinafter: "**Materials**" or "**Material**").
- b) If and insofar as a question (or several questions/questionnaires) that Client wishes to use has been created independently by Client, any copyrights resting thereon will rest with Client. In that case, Effectory acquires the right of use to include such question(s)/questionnaires in the (respective) survey(s) and the related Materials.
- c) Client exclusively acquires an exclusive right of use with regard to the Materials, limited to use within Client's organization. Client will not use the Materials other than for which the Materials have been made available to Client. In particular, Client will not process, make available and/or sublicense the Materials to third parties. Disclosure of the Materials is only permitted with the prior written consent of Effectory.
- d) Client retains all (intellectual property) rights with regard to the information it provides

("**Client Information**"). Client guarantees that the Client Information will not infringe any (intellectual property) right of third parties and that the Client Information may be processed and edited by Effectory in accordance with the agreement between Client and Effectory. Client indemnifies Effectory against all claims, liabilities, damage, losses and costs of third parties arising from or in any way related to the Client Information.

## 3 CONFIDENTIALITY

Effectory and Client are obliged to maintain the confidentiality of confidential information which they have obtained from each other (including research results, reports and information about Effectory's models, strategies, processes and working method) within the context of their agreement or from any other source and shall not use this confidential information for purposes other than the performance of said agreement.

## 4 TERMS OF PAYMENT

- a) Payment shall be made in advance, within the term as stated on the invoice sent by Effectory, without discount or set-off. Upon expiry of this term, Client shall be in default by operation of law.
- b) In the event of the liquidation, bankruptcy or suspension of payments by Client, the obligations of Client become immediately due and payable.
- c) Effectory is at all times entitled to invoice interim costs for work that has been performed and/or costs that have been incurred up to that time.
- d) If Client wishes to have an audit by a registered accountant in connection with an invoice, cooperation will be provided. Costs of such audit will be invoiced to Client.
- e) If Client is in breach or default of (timely) performance of its obligations, all reasonable costs incurred in order to obtain payment out of court are borne by Client, including in any event legal expenses and enforcement costs and (if applicable) collection costs. If Effectory has reasonably



had to incur higher costs, these costs also qualify for reimbursement.

## **5 LIABILITY**

- a) In the event of failures attributable to Effectory in the performance of the services to be provided, the liability of Effectory is limited to direct loss/damage caused to Client up to the amount covered by and payable under the terms of its insurance. If the insurer for whatever reason does not pay or the loss/damage is not covered, the liability of Effectory is limited to the amount equal to the price for the provision of services that forms the basis of the agreement under which the loss/damage occurred. If the agreement covers a term that extends beyond one year, the price is set at the total remuneration for one year. The aforementioned limitation of liability ceases to apply if and insofar as the loss/damage is the result of an intentional act, gross negligence or serious negligence.
- b) Effectory is never liable for:
  - (i) indirect loss/damage (which in any case includes consequential damage, loss of turnover and profits, reputational damage, loss of savings and any damage due to an interruption in business operations); and/or
  - (ii) damage or loss sustained by third parties, as a result of, among other things, (the result of) work performed by Effectory or recommendations that Client made use of, or infringement of patents, licenses or other rights of third parties through the use of data provided by or for Client. Client shall indemnify Effectory against such claims by third parties for compensation of loss/damage.
- c) Before the right to termination arises as a result of failure in the performance of the agreement, the Parties must give each other the opportunity to rectify said failure within a reasonable time period. Written notice of default must be served before Parties are deemed to be in default.
- d) Client forfeits claims that have not been communicated to Effectory in writing within one year after the discovery of a circumstance that gives rise to or may give rise to liability.

## **6 FORCE MAJEURE**

- a) Effectory is not liable if a failure in performance is the result of force majeure.
- b) In these general terms and conditions, force majeure is understood to mean (in addition to what is understood in this respect in law and case law): transport and/or communication disruptions and stagnation at third parties on whom Effectory depends, expressly including suppliers of cloud services, communication links and other components of the information and technical infrastructure that Effectory uses.
- c) In the event of force majeure, Effectory's obligations are suspended. If the period during which performance is not possible lasts longer than two months, Effectory may terminate the agreement without any obligation to pay damages or compensation.
- d) If Effectory has already partially fulfilled its obligations at the onset of force majeure, or can only partially fulfil these, it is entitled to issue a separate invoice for the service(s) already provided and/or the deliverable part thereof and Client is obliged to pay this invoice.

## **7 APPLICABLE LAW & DISPUTE SETTLEMENT**

- a) These general terms and conditions and all agreements that arise therefrom or relate thereto are governed by Dutch law.
- b) Any disputes between Effectory and Client shall be resolved by the District Court of Amsterdam. Effectory remains authorized to summon Client before the competent court according to (international) law.