

Terms and Conditions Medical Data Works B.V.

April 2019

Item 1 Definitions

MDW B.V.: Medical Data Works B.V., registered at the Netherlands Chamber of Commerce under number 69005869, henceforth to be called “MDW”

Contractor: Medical Data Works B.V.

Client: The party requesting the quotation, appointing the commission or entering an agreement with MDW.

Agreement: Every legal relationship where these terms and conditions are applicable following item 2.

Quotation: Formal offer from MDW to enter an agreement prepared at the request of a potential client.

Result: Knowledge reported by MDW in the context of performance –to which these terms and conditions apply-, regardless of the manifestation (report, drawing, calculation, manual, model, software, etc.).

Item 2 Applicability

These terms and conditions apply to:

1. all performed actions and quotations to be released under the responsibility of MDW, including deliveries, either for execution of an explicitly or silently provided and/or accepted contract, either in the context of relations evolving between MDW and the client relating to the performance or otherwise;
2. as well as to all services provided –on an informal basis- under the responsibility of MDW for the client.

The client accepts that these terms and conditions will continue to apply in future relations between parties, and that terms and conditions used by the client shall not apply unless expressly agreed upon.

Item 3 Quotation

1. MDW's quotations are based on the information provided by the client. The client guarantees the provision of essential information for the design and implementation of the contract, to the best of his knowledge.
2. If after contract provision information supplied by the client proves to be incorrect or modified, MDW reserves the right to adjust pricing and deadlines in the quotation.
3. The quotations released by MDW have a fixed -to be determined in the quotation- validity period. In case no such period has been indicated this period is thirty days.

Item 4 Creation of the agreement

1. A contract only leads to an agreement if the client has accepted a quotation of MDW within the validity period or if MDW has otherwise by writing confirmed the contract conferred by the client.
2. The confirmation is based on the information supplied to MDW by the client and is assumed to convey the agreement correctly and completely.
3. The agreement is of indefinite duration unless it follows from the content, nature or scope of the conferred contract that it has been entered for a certain time period.

Item 5 performance of the assignment

1. All services provided by MDW, are executed to the best possible ability and knowledge in accordance with good craftsmanship. This obligation has the character of an ‘effort obligation’; attaining the intended goal cannot be guaranteed. A result consists of the knowledge within the context of the achievements on which these terms and conditions apply that MDW reports to the client, in any manifestation.

2. MDW determines by whom and in what manner an awarded contract is carried out and considers the wishes of the client as much as possible.
3. MDW can perform more activities and charge these to a client than was agreed upon at first, if the client has consented this beforehand, or when these activities fall within MDW's duty of care.
4. The inclusion or contracting of third parties during execution of the assignment by both the client and MDW only takes place after an agreement on the matter has been reached, unless deviating agreements have been made during contract provision.

Item 6 Cancellation, interruption, delay or extension of the assignment

1. The client shall reimburse all costs and damages that follow directly from the interruption or cancellation of the contract, if and to the extent that this is not caused by MDW. To the extent that this is not reasonably calculable, these costs shall be a minimum of 25% of the remaining contract price.
2. In the case of an interruption longer than six months MDW reserves the right to regard the contract as cancelled. As a starting date of the interruption the date of the letter from the client in which the interruption is made known, or –in the absence of such a letter- the date of writing in which MDW notes the interruption.
3. In case of delay or extension of activities relating to the assignment MDW retains the right to pass on any extra costs or salary, if the delay or extension are not caused by MDW's employees or those contracted by MDW.

Item 7 Honorarium / reimbursement

1. MDW performs its work based on:
 - an amount based on current hourly rates where MDW will provide a non-binding budget at request of the client based on expected performance and/or
 - an amount to be agreed on in advance.
2. Performed work is charged afterwards according to the rates at that point in time. For any miscellaneous work both parties shall explicitly agree on the method of payment.
3. In case of orders against a predetermined rate, of which one or more payments, more than a year after creation of the agreement is owed, MDW may recalculate the payments owed after that year to the rates that apply that year.
4. The allowances mentioned in the first subsection are increased by sales tax and are based on the execution of assignments under non-exceptional circumstances.
5. Travel time is assumed to be spent on the execution of the assignment unless otherwise agreed upon.

Item 8 Payment

1. Payments are to be made without any subtraction or debt comparison, within 30 days after invoice date unless otherwise agreed upon.
2. Possible claims against the quote are to be made within 8 days of the invoice date and do not suspend the payment obligation.
3. In case the client disputes an invoice based on invoiced hours, MDW's time registration is binding for the resolution of this conflict excepting counterevidence from the client.
4. If the client does not pay within the prescribed period, default occurs automatically starting the day after the expiration date, without any obligation of summons or notice of default to MDW. In this case the client shall owe a legal interest starting the due date and ending on the day of payment.

5. In case MDW is forced to resort to measures of recovering amounts due or enforcing its rights towards the client, the client is held to reimburse all administrative costs and all incurred costs. These include costs made for contracting third parties.

Item 9 Payroll tax and social insurance contributions

MDW ensures correct payment of payroll tax and social insurance contributions for its employees and can produce an accountant's written statement on request.

Item 10 Confidentiality and privacy

1. MDW shall keep all data the context of a quotation it receives or learns in any way in of which the confidentiality is established or can reasonably be assumed confidential unless it is legally obligated to make a notification or announcement.
2. MDW is not entitled to use the information which was received from the client for anything other than the intended goal.
3. The confidentiality does not hold for results of a general character (not specific to the own business operations or those relating to the client), of a public (open source) nature, legally received by MDW through a third party, or marked as non-confidential in consultation with the client
4. In the case personal data is processed by MDW commissioned by the client, the client is responsible for setting up a processor agreement and having it signed by both parties. MDW possesses a privacy statement.
5. MDW will impose its confidentiality commitments to third parties contracted by it.

Item 11 Liability

1. MDW is only liable for damages suffered by the client in case it is directly and exclusively caused by a shortcoming imputable to MDW, provided that only damage for which MDW is insured qualifies, or damage that should reasonably have been insured according to the industry customs. The following limitations are to be considered:
2. Business damage, loss of income and such are not eligible for compensation, regardless of the cause.
3. MDW shall never be responsible for damages caused by intent or guilt of third parties.
4. MDW is only held to reimburse the suffered damage of the client if the client proves the suffered damage is a direct effect of an avoidable, gross and culpable carelessness of MDW or persons of which MDW makes use or is responsible of.
5. MDW's liability for damages due to shortcomings is limited to the amount of the honorarium that MDW has received for its work in the context of the quotation. For orders with a longer duration than a year, a further limitation of the liability holds with a maximum of the declaration amount over the last six months.
6. In case a contract entails more than one result, for determining the limitations of MDW only those parts of the compensation directly relating to the cause of the damages are considered.
7. Despite MDW's due diligence as described in the first subsection, MDW does not vouch that its delivered results and its performed work cannot cause any violation of rights of third parties, including intellectual properties and industrial property of third parties.
8. MDW is in no way liable for the damages caused by software. The responsibility to validate open source software before it is used for production purposes lies with the client.
9. In case MDW's insurer for whatever reason does not pay out, MDW's liability shall always be limited to a maximum of the purchase price.
10. The limitations in the compensation obligations of the client from this article shall extend to MDW's employees as well as to third parties of whom MDW has made use of and over whom MDW is responsible.

Item 12 Force majeure

1. Notwithstanding these terms and conditions, MDW is never liable if it cannot fulfill its obligations towards the client in time due to force majeure. All circumstances hampering standard practice, such as war or terrorism circumstances, fire and other destructions, business disorders of any kind, government measures, etc.
2. In case third parties, of whom MDW is dependent for the execution of the contract, do not honor their commitments or do not do so in a timely fashion due to force majeure, this failure to complete or to meet deadlines by these third parties also results in force majeure for MDW towards the client.

Item 13 Cancellation, dissolution after default

1. Notwithstanding the aforementioned, the client shall be in default if it –despite proper notice of default- does not duly or completely meet obligations resulting from the contract within the prescribed period. If such is the case, MDW retains the right to without judicial interference suspend or partially or completely cancel the contract, without MDW being held to any compensation. However, without prejudice remains MDW's right to compensation due to failure and the suspension or cancellation. In such case every claim MDW has regarding the client is due and payable immediately.
2. In case of bankruptcy, suspension of payment, liquidation or if the client is placed under guardianship, administration or supervision it shall be deemed by law to be in default; In this case MDW retains the right to, without notice of default or any judicial intervention, dissolve the contract partially or completely under the aforementioned terms.

Item 14 Disputes and applicable law

1. All disputes, including cases in which but one party views the case as a dispute, shall be submitted to the exclusive jurisdiction.
2. On the creation and execution of the agreement Dutch law shall apply.

These terms and conditions have been registered at the Netherlands Chamber of Commerce under 69005869.