

## WESP General Terms and Conditions

These general terms and conditions for the provision of Services are used by WESP B.V., a private limited company under Dutch law, with its registered address in 's-Hertogenbosch (5211 AL) at Lekkerbeetjesstraat 1, registered with the Chamber of Commerce under number 53169689.

### I General provisions

#### 1. Definitions

The following definitions apply in these General Terms and Conditions:

**Services:** the services that WESP provides to the Client as described in the Agreement.

**Intellectual property rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, rights to computer software, database rights, brands, trade names and domain names, rights to designs, rights of use, and protection of the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, whether registered or unregistered, including all applications and rights to apply for and grant such rights, renewals or extensions, and rights to claim priority, and any similar or equivalent rights or forms of protection that continue or will continue to exist now or in the future in any part of the world.

**Client:** the person or company that purchases services from WESP.

**Agreement:** the agreement between WESP and the Client for the provision of Services in accordance with these General Terms and Conditions

**WESP:** WESP B.V., registered in the register of the Chamber of Commerce under number 53169689.

**WESP System:** the management information system of WESP.

#### 2. Quotes and Offers

- 2.1 WESP's quotes and offers are based on the information provided by or on behalf of the Client. The Client guarantees the accuracy and completeness of the information it has provided.
- 2.2 Unless otherwise stated or agreed, all WESP quotes and offers are valid for a period of 30 days.
- 2.3 WESP cannot be held to its quote or offer if the Client can reasonably understand that the quote or offer, or a part thereof, contains an apparent mistake or error.
- 2.4 The prices stated in the quote or offer are exclusive of VAT and other government levies, any costs to be incurred in the context of the agreement, including travel and accommodation costs, shipping and administration costs, unless otherwise indicated. Furthermore, the quotes and offers are based on performance under normal circumstances and during normal (office) hours.
- 2.5 An agreement is concluded because the Client accepts the quote from WESP in writing within the period of its validity, or if WESP has confirmed in writing an order issued by the Client, or because WESP has started its work for the Client.
- 2.6 An order confirmation sent by WESP to the Client is deemed to accurately and completely reflect the agreement, unless the Client has objected to this in

writing no later than within four (4) working days after sending the order confirmation to the Client.

- 2.7 WESP is at all times entitled to (partially) refuse an order without further explanation and without being liable for any damage, for example if WESP has an indication or a suspicion that the Client will not comply with its payment obligations.
- 2.8 WESP is entitled to involve an affiliate or third parties in the performance of the Agreement. WESP is also entitled to transfer (part of) its rights and obligations under the Agreement to an affiliate or a third party. The Client agrees that WESP may share any information the Client has provided to WESP with such affiliate or third party to the extent relevant to our performance, obligations or for the transfer under the Agreement.
- 2.9 These General Terms and Conditions together with the order and the Agreement and/or the signed quote, constitute the entire agreement between WESP and the Client for the provision of Services. The general terms and conditions of the Client are hereby expressly rejected

#### 3. Performance

- 3.1 WESP will carry out the Agreement to the best of its knowledge and ability. All work of WESP will be performed on the basis of an efforts agreement, unless and insofar as WESP has expressly promised a result in the written order, and the respective result is also described with sufficient detail.
- 3.2 If WESP or third parties engaged by WESP in the context of the order perform work at the location of the Client or a location designated by the Client, the Client will take care of the facilities reasonably desired by those employees free of charge.
- 3.3 The Client ensures that all data which WESP indicates is necessary or which the Client should reasonably understand to be necessary for the performance of the agreement, is provided to WESP in a timely manner. If this information is not provided in a timely manner, WESP has the right to suspend the performance of the agreement and/or to charge the Client for the additional costs resulting from the delay in accordance with the usual rates at that time. The performance period does not start until after the Client has made the data available to WESP.
- 3.4 WESP is not liable for damage of any kind if WESP has proceeded based on incorrect and/or incomplete data provided by the Client.
- 3.5 WESP will use all reasonable efforts to achieve the dates of performance set out in the Agreement. However, these dates are estimates only and time is not of the essence to the performance of the Services.
- 3.6 If the Agreement is carried out in phases, WESP may suspend the perform of those parts that belong to a next phase until the Client has approved the results of the

previous phase in writing, and the invoices for the previous phase have been paid.

- 3.7 If, during the performance of the agreement, it appears that it is necessary for the proper performance thereof to change or supplement it, the parties will proceed to amend the agreement in a timely manner and in mutual consultation. If this has consequences for the originally agreed price, WESP will give a price of the adjustments to the extent possible. An amendment to the Agreement may also have consequences for the delivery period.

#### **4. Price and payment**

- 4.1 WESP reserves the right to adjust its rates at least once a year at any time based on developments of the price level in the market. WESP will inform the Client of price changes. WESP is also entitled to increase the agreed price in the interim, if and insofar as the increase arises from a legal power or obligation pursuant to laws or regulations. In that case, the Client is not entitled to dissolve the agreement for that reason.
- 4.2 If the price change, other than as a result of a change of the agreement, is more than 10% and takes place within three (3) months after the conclusion of the Agreement, the Client is entitled to cancel the Agreement.
- 4.3 Unless otherwise agreed, payment must be made within fourteen (14) days of the invoice date.
- 4.4 If the Client fails to pay an invoice in a timely manner, the Client will be legally in default. In that case, the Client also owes interest of one percent (1%) per month as well as extrajudicial collection costs. The extrajudicial collection costs are calculated in accordance with the Compensation for extrajudicial collection costs decree, with a minimum of €40.00. If WESP has incurred higher costs for collection than will be reimbursed by the aforementioned decree, the actual costs incurred will be eligible for reimbursement by the Client.
- 4.5 Payments will first be deducted from costs, then deducted from the interest, and finally deducted from the (oldest) principal amount.
- 4.6 The Client is never entitled to offset the amount owed by it to WESP. Objections to the amount of an invoice do not suspend the payment obligation.

#### **5. Term of the Agreement**

- 5.1 The Agreement between WESP and the Client is entered into for the period as described in the Agreement.
- 5.2 The Agreement will commence at the agreed time or at the time WESP carries out the Agreement.
- 5.3 The Parties are entitled to terminate duration agreements, such as subscriptions, in writing with due observance of a notice period of at least four (4) weeks at the end of the agreed term.
- 5.4 Without prejudice to any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
- the other party commits a material breach of any term of the Agreement and, if such breach is remediable, fails to remedy that breach within thirty (30) days of that party's written notice;
  - the other party takes any step or action in connection with entering into the administration, provisional liquidation or an agreement or arrangement with its creditors (other than in connection with solvent

restructuring), files a request with the insolvency court, is liquidated (voluntary or by order of the court, unless for the purpose of solvent restructuring), a receiver will be appointed for one of its assets, or ceases its activities;

- the other party suspends or threatens to suspend its activities, or ceases or threatens to cease all or part of its activities; or
  - the financial position of the other party deteriorates to such an extent that, in the opinion of the terminating party, the other party's ability to properly fulfil its obligations under the Agreement is jeopardised.
- 5.5 Amounts that WESP has invoiced before the termination in connection with what it has already performed or delivered in the performance of the agreement, remain fully due and immediately payable at the time of the dissolution, with due observance of the provisions in the previous sentence.
- 5.6 If it becomes apparent during the performance of the Services that it is necessary for a proper performance thereof to change or supplement these, then the parties will proceed to adjust the agreement in a timely manner and in mutual consultation. Costs as a result thereof will be borne by the Client.
- 5.7 Obligations which by their nature are intended to continue even after termination of the agreement on any grounds whatsoever, will survive termination of the Agreement.

#### **6. Force Majeure**

- 6.1 Neither party will be obliged to comply with any obligation if it is prevented from doing so as a result of a circumstance that is not due to its fault, and is not responsible either by law, legal act or a generally accepted view.
- 6.2 Force majeure on the part of WESP means, in addition to that which is determined in the law and case law, includes (i) strikes in the company of WESP, (ii) lack of and illness of personnel, (iii) non-performance and/or force majeure on the part of its suppliers, (iv) government measures, (v) electricity failure and (vi) malfunction of the internet, data network or telecommunications facilities. The third party engaged by WESP may also invoke this provision, if applicable.
- 6.3 If a force majeure situation lasts longer than sixty (60) days or if after the expiration of a period of two (2) months there is no prospect of improvement, either party is entitled to dissolve the agreement in writing, without this creating any right to compensation. That which has already been performed based on the Agreement will be settled proportionally in that case, without the parties owing each other anything.

#### **7. Liability**

- 7.1 Nothing in the Agreement limits or excludes a party's liability for fraud, wilful intent or wilful recklessness on the part of that party's management.
- 7.2 Liability of both parties for indirect damage, including consequential damage, lost profit, missed savings, loss of files and/or data, claims of third parties against the Client, and damage due to business stagnation and underutilisation, is at all times excluded.
- 7.3 WESP's liability due to attributable failure in the fulfilment of Agreements is limited to reimbursement of the invoice

amount paid by the Client to WESP in the last six (6) consecutive months prior to the fact that has incurred liability.

- 7.4 WESP is only liable for a shortcoming in the fulfilment of its obligations under the Agreement if the Client has made WESP aware, or should have reasonably made aware, of the shortcoming within thirty (30) days, notifies by means of a notice of default with a complete and detailed description of the failure and with due observance of a reasonable remedial period of at least thirty (30) days, and WESP fails to take remedial action within that period. With regard to the remedial measures, WESP has a choice of adjusting the amount charged, improving or re-performing the rejected work free of charge or not (any longer) performing the order in whole or in part against a refund in proportion to the amount already paid by the Client. The notice of default must be in writing and must state the event and the grounds for the claim in reasonable detail.
- 7.5 Without prejudice to the other exclusions included in these General Terms and Conditions, WESP is not liable for damage: (i) caused by third parties involved in the performance of an order, unless that third party is involved in the order by WESP, and the Client demonstrates that WESP did not act with care in the choice of the third party; (ii) that is the result of incorrect or incomplete information provided to WESP, unless the inaccuracy or incompleteness could have been obvious to WESP and WESP failed to inform the Client of such inaccuracy or incompleteness; and (iii) that arises because third parties gain unauthorised access to information regarding the order or the Client.
- 7.6 The Client indemnifies WESP against all claims from third parties as a result of a defect in a product or system that was delivered by the Client to a third party and that also consisted of equipment, software or other materials supplied by WESP, unless and insofar as the Client proves that the damage was caused by said equipment, software or other materials.
- 7.7 The provisions in this article as well as all other limitations and exclusions of liability mentioned in these general terms and conditions also apply to all (legal) persons/entities which WESP uses in the performance of the Agreement.

## 8. Confidentiality

- 8.1 Each party undertakes that it will not at any time during the term of the Agreement, and for a period of two years after termination of the Agreement, disclose to any person any confidential information concerning the company, the business, the customers or the suppliers of the other party, except as permitted in Article 8.2.
- 8.2 Either party may disclose the other party's confidential information:
- a. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purpose of performing the party's obligations under the Agreement. Each party will ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11.3; and

- b. as required by law, a court of competent jurisdiction, or any governmental or regulatory authority.

- 8.3 Unless otherwise agreed, neither Party will use the other Party's confidential information for purposes other than the performance of its obligations under the Agreement

## 9. Personal data

- 9.1 Both parties will comply with all applicable regulations regarding the protection of personal data. To the extent WESP processes personal data for and on behalf of the Client, the Data Processing Terms will apply to the Agreement. These can be accessed at <https://mywesp.com> under 'Data Processing Terms'.
- 9.2 When one party provides personal data to the other party, whereby the other party may be considered a controller, or whereby the other party receives the personal data directly from data subjects being employees of one party, the processing of that personal data will take place under the privacy notice of the other party. The parties will make each other's privacy statement available to their own employees who are involved in the performance of the Agreement. This obligation does not release the parties from complying independently with their information obligation towards the data subjects, or to ask data subjects for explicit consent, if the applicable legislation regarding the protection of personal data so requires. WESP's privacy statement can be accessed at <https://mywesp.com>.
- 9.3 The responsibility for the data processed by the Client using a WESP service lies entirely with the Client. The Client guarantees to WESP that the content, the use and/or the processing of the data are not unlawful and do not infringe on any right of a third party. The Client indemnifies WESP against any legal claim of a third party, for whatever reason, in connection with this data or the performance of the Agreement.
- 9.4 The Client indemnifies WESP against claims from persons whose personal data is registered or processed in the context of a persons registration held by the Client or for which the Client is otherwise responsible based on the law, unless the Client proves that the facts underlying the claim are attributable to WESP.

## 10. Security

- 10.1 If WESP is obligated under the Agreement to provide a form of information security, that security will meet the specifications regarding security agreed between the parties in writing. WESP does not guarantee that information security is effective under all circumstances. If an expressly described manner of security is missing from the Agreement, the security will comply with a level that, given the state of the art, the sensitivity of the data and the costs associated with the security, is not unreasonable.
- 10.2 The Client will adequately secure its systems and infrastructure and will at all times operate antivirus software.

## 11. Intellectual property rights and right of use

- 11.1 All Intellectual Property Rights in or arising out of or in connection with WESP's products and Services are owned by WESP or its licensors.
- 11.2 WESP grants to the Client, or will grant directly to the Client, a fully paid, worldwide, non-exclusive license

during the term of the Agreement to use the Services solely for the purpose of receiving and using the services and the results in its business, unless otherwise agreed.

11.3 After the end of an Agreement that is a duration agreement for the purpose of using data, the Client will delete all data, such as but not limited to vehicle maintenance data that WESP has made available to the Client in the context of the performance of that duration agreement, immediately after the end of the duration agreement. At the request of WESP, the Client will provide proof of this removal to WESP.

11.4 The Client grants WESP an irrevocable, perpetual and transferable right of use with regard to all data that the Client has made available to WESP in the context of the Agreement. This use is for all of WESP's own purposes, including but not limited to making analyses, models, and calculations. This right of use of WESP is limited to aggregated data that is fully anonymised or pseudonymised and therefore not traceable to a natural person. All analyses, models, calculations and other forms of processing remain the property of WESP at all times.

## 12. Transfer

The Client is not entitled to transfer to third parties, put into a different company or encumber the rights and obligations arising from the agreement in whole or in part, without the prior written permission of WESP. The Client already grants its consent or cooperation to WESP for a possible (partial) transfer of rights under the agreement to third parties.

## 13. General

13.1 Deviations from these general terms and conditions are only binding insofar as they have been agreed in writing between WESP and the Client.

13.2 If one or more provisions in these general terms and conditions are wholly or partially void, or should they be annulled at any time, the other provisions of these general terms and conditions will remain in full force and effect. The Parties will then consult in order to replace the void or annulled provisions (or have them replaced), whereby the purpose and the scope of the original provisions are taken into account as much as possible.

13.3 If there is uncertainty about the interpretation of one or more provisions of these general terms and conditions or if a situation arises between the parties that is not regulated in these general terms and conditions, the interpretation must take place or the situation must be assessed "in the spirit" of these general terms and conditions.

13.4 If WESP does not always require strict compliance with these general terms and conditions, this does not mean that WESP would, in any degree, lose the right to demand prompt compliance with the provisions of these terms and conditions in other cases.

13.5 WESP is entitled to amend these terms and conditions at any time. The most recent version of the general terms and conditions always applies. Such a change will take effect four (4) weeks after the date of dispatch to the Client of the amended General Terms and Conditions. If the Client objects to the change in writing within these four (4) weeks, the original general terms and conditions will continue to apply to it.

13.6 All agreements to which these general terms and conditions apply, as well as any disputes arising from them, are governed by Dutch law.

13.7 At WESP's option, disputes will always be submitted to the competent court of the District Court of Oost-Brabant, location 's-Hertogenbosch, unless WESP chooses to bring the case before the court of the place of residence of the Client.

## II Additional provisions on access and use of the WESP System

In addition to the General Provisions of these General Terms and Conditions, the following provisions apply if WESP grants the Client access to the WESP System. In that case, these additional provisions are deemed to be an integral part of these General Terms and Conditions.

### 14. Access and Use of the WESP System

14.1 The WESP system is only accessible via the internet. In order to use the WESP system, the Client must have a working internet connection. WESP is entitled to impose requirements on the (configuration of the) equipment, which are necessary for use of the WESP system. The Client undertakes to set up or adjust the equipment at any time in such a way that WESP's requirements are met, in the absence of which WESP is entitled to suspend its obligations, without prejudice to the Client's obligation to continue to meet its payment obligations.

14.2 The Client is not free to allow third parties to use the WESP System.

14.3 WESP may make changes to the content or scope of the WESP System. If such changes would result in a change to the procedures applicable to the Client, WESP will inform the Client of this as soon as possible, and the costs of this change will be borne by the Client.

14.4 The Client is obliged to immediately report problems with the WESP System to WESP, and to provide WESP with information that is necessary for the correction of errors.

14.5 WESP may temporarily suspend all or part of the WESP System for preventive, corrective or adaptive maintenance or other forms of service. WESP will not have the decommissioning last longer than necessary and, if possible, will allow it to take place outside office hours.

14.6 The (duration of the) access to and use of the WESP system depends on the content and duration of the agreement.

## III Additional software provisions

In addition to the General Provisions of these General Terms and Conditions, the following provisions apply if WESP makes software available to the Client, other than based on a SaaS (Software-as-a-Service) service. In that case, these additional provisions are deemed to be an integral part of these General Terms and Conditions.

### 15. Right of use

15.1 WESP makes the agreed software available to the Client for use during the term of the Agreement based on a user license. The right to use the software is non-exclusive, non-transferable, non-pledgeable, and non-sublicensable.

- 15.2 The Client may use the software for its own company or organisation only, and this only insofar as this is necessary for the intended use.
- 15.3 The Client is never permitted to sell, rent, dispose of, decompile, reverse engineer, modify the software, the accompanying codes for use, and the carriers of the software without prior permission of WESP, grant limited rights to this or make it available in any way, for any purpose or under any title whatsoever, except insofar as permitted by law.
- 15.4 Upon request, the Client will immediately cooperate with an investigation to be carried out by or on behalf of WESP regarding the compliance with the agreed use restrictions. Upon first request of WESP, the Client will grant access to its buildings and systems. WESP will treat all confidential business information that it obtains in the context of an investigation from or at the Client, insofar as this information does not concern the use of the software itself, confidentially.
- 15.5 WESP is not obliged to maintain the software.
- 15.6 WESP will only install the software at the Client's if so agreed.
- 15.7 Unless otherwise agreed in writing, the Client must immediately stop using the WESP software after the end of the agreement, and destroy all copies of the software in its possession and report this destruction to WESP.

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