

# General Terms and Conditions Vitallife:



## Article 1. Definitions

- 1.1. *Contractor*: Vitallife®, registered with the Chamber of Commerce under number 64239152.
- 1.2. *Commissioning party*: the natural or legal person by who has assigned the services provided.
- 1.3. *Agreement*: the fixed term agreement between Contractor and Commissioning party relating to the provision of services by the Contractor against payment by the Commissioning party, in the framework of the welfare of the employee of the Commissioning party.
- 1.4. *Services*: providing chair massages, other types of massages, work place investigations and ergonomical advice and training related to posture, health and related issues by the Contractor.
- 1.5. *Masseur/Consultant*: the masseur or consultant performing services for the Commissioning party after subscription on behalf of the Contractor.
- 1.6. *Employee*: a staff member or relation of the Commissioning party.

## Article 2. Applicability

- 2.1 The Agreement consist of these General Terms and Conditions and the confirmation of assignment signed by Contractor and Commissioning party.
- 2.2 These General Terms and Conditions will apply to each offer, quotation and Agreement between Contractor and Commissioning party, for as far as parties have not explicitly deviated from these General Terms and Conditions.
- 2.3 The applicability of any purchasing terms and conditions and/or any other terms and conditions of Commissioning party is expressly rejected. Upon receipt of a quotation or Agreement these General Terms and Conditions will be presented. The General Terms and Conditions can also be found on the Contractor's website.
- 2.4 Should one or more provisions of these General Terms and Conditions be entirely or partially annulled or declared void by the court at any time, then this will not affect the operation of any other conditions.

## Article 3. Deviations from the General Terms and Conditions

- 3.1 Deviations from these General Terms and Conditions will be effective only if this has been confirmed in writing by both parties.
- 3.2 If one or more provisions of these General Terms and Conditions shall be deviated from with the consent of both parties, then the remaining provisions will fully remain in force.
- 3.3 When the Contractor expressly or silently authorizes deviations from any point and/or component of these General Terms and Conditions during a shorter or longer period, then this does not affect the Contractor's right to strict future compliance with the General Conditions. Even if the Contractor has not strictly applied one or more provisions of these General Terms and Conditions for a period in favor of the Commissioning party, the Commissioning party involved cannot derive any rights therefrom for the future.

## Article 4. Quotations and offers

- 4.1 All quotations and offers by Contractor are without obligation, unless the offer or quotation sets out an acceptance term. If no acceptance term is stated, no right can be derived from the quotation or offer in any manner whatsoever.
- 4.2 Quotations by Contractor are based on the information supplied by Commissioning party. Commissioning party warrants that he/she has timely and truthfully supplied Contractor with all information that is essential for the planning, execution and completion of the assignment.
- 4.3 Contractor cannot be held to a quotation or offer if Commissioning party can reasonably understand that (a part of) the quotation and offer contains an obvious mistake or writing error.
- 4.4 A composite quotation and offer shall not obligate Contractor to carry out a part of the quotation and offer against a corresponding part of the stated price.
- 4.5 Offers and quotations do not automatically apply to future orders.
- 4.6 If reservations or changes concerning an offer or agreement are made in the acceptance of an offer then this agreement will only be entered into if the Contractor has provided the Commissioning party with a written statement which sets out that he agrees to these deviations from the offer or Agreement.

## Article 5. Prices

- 5.1 All prices are in euro's exclusive of VAT. Other government levies as well as any other costs that may be incurred within the framework of the Agreement such as travel and other expenses including but not limited to invoices from engaged third parties shall not be borne by the Contractor, unless otherwise has been agreed in the Agreement.

- 5.2 The services will be provided at the agreed rates subject to the consent of both parties. The rates are valid each time for period of one contract year in that the Contractor may announce any changes in rates, services and/or conditions in writing at least 30 calendar days before the expiry of the agreed contract year.
- 5.3 Contractor retains the right to change the rates after termination or extension of the contract period. In this case Contractor will inform Commissioning party in writing. The new rates will be applied after the Commissioning party has given his written consent.

#### **Article 6. Agreement**

- 6.1 The Agreement shall come into effect as from the day the Commissioning party and Contractor sign and the written assignment confirmation was sent by Contractor to Commissioning party respectively.
- 6.2 Unless otherwise is stipulated in the Agreement, it will be entered into for the term of one year, starting on the first day of the month following that in which the quotation or Agreement is signed.
- 6.3 After expiry of the agreed contract period the Agreement shall be extended by operation of law with the same term unless one of the parties has given written notice of termination within 30 days before the end of the contract period.

#### **Article 7. Modifications of an assignment or Agreement**

- 7.1 Changes to an assignment or Agreement will be effective only if confirmed in writing by the Contractor and the Commissioning party.
- 7.2 In an Agreement, changes before termination can only take place with mutual consent or court intervention except as stipulated in article 7.4.
- 7.3 In case of an Agreement with a term of one year, the Contractor reserves the right to rates, services and/or conditions annually. Contractor will send Commissioning party a written proposal to extend the Agreement concerned (renewal proposal) at least 30 calendar days before the expiry of the Agreement. After the Commissioning party has approved the change(s) in writing, the changes will become effective.
- 7.4 The provisions of this article do not affect the Contractor's right to change the services and/or conditions as a result of statutory regulations, provided that the Commissioning party has agreed to these changes in writing. Contractor is entitled to charge any extra costs following directly or indirectly arising from statutory regulations on to the Commissioning party from the next invoice date.

#### **Article 8. Performance of the Agreement**

- 8.1 Contractor will perform his/her work activities with due care as may be expected from a good Contractor.
- 8.2 With the Agreement, Contractor undertakes a best efforts obligation and therefore does not provide any guarantees concerning the results of the assignment, unless explicitly stipulated otherwise.
- 8.3 Contractor has the right, for as far as this is required for a proper performance of the Agreement, to have the Agreement carried out by third parties. Contractor shall inform the Commissioning party in this respect.
- 8.4 The applicability of Sections 7:404, 7:407 paragraph 2 and 7:409 Dutch Civil Code is hereby expressly excluded.
- 8.5 The services that will be delivered by the Contractor to the Commissioning party include the services set out in the Agreement.
- 8.6 In case of sickness, leave or other reasons for inability to supply the services mentioned in the Agreement, the Contractor will make every effort to find a replacement so that the continuity and quality remains guaranteed. If this is not possible in the short term, the booked hours will of course not be charged.

#### **Article 9. Cancellation**

- 9.1 Cancellation of a single assignment must be made no later than seven calendar days before the agreed day, unless otherwise has been agreed. In addition, the Contractor will charge the Commissioning party 15% of the agreed fee for cancellation of the service(s).
- 9.2 If cancellation is not made or made too late, the Contractor is entitled to charge for the relevant service(s), without prejudice to her right to receive payment for all the costs she has incurred in this respect.
- 9.3 For as far as the offer or Agreement does not include a treatment schedule, the Contractor shall provide its services in accordance with a schedule regular for the Contractor. With regard to the treatment schedule referred to, the employee's, relation's and/or the Commissioning party's prevention or failure to attend or failure to respond will be at the risk of the Commissioning party as described in Article 9.2.
- 9.4 The treatment schedules shall be, as agreed upon, made available online or on paper to the Commissioning party. In case of an empty slot in the planning – that which the Commissioning party shall attempt to prevent – then this will be at the risk of the Commissioning party and the incurred costs shall be charged to the Commissioning party.

## **Article 10. Alteration of the assignment**

- 10.1** Changes in the Agreement by Commissioning party that could not have been foreseen by Contractor and which entail additional work, shall be charged by Contractor to Commissioning party in conformity with the rate agreed in the Agreement. Additional work shall furthermore be the rescheduling of planned activities by Contractor if this is required as a result of incorrect or incomplete data provided by Commissioning party. Contractor is entitled to invoice the costs for additional work to Commissioning party on the basis of subsequent calculation.
- 10.2** Commissioning party shall timely inform Contractor in writing of any changes in the execution of the Agreement requested at a later time by Commissioning party after granting the assignment. A change and/or addition to the Agreement will only be valid if accepted by both Contractor and Commissioning party (preferably in writing).

## **Article 11. Cooperation / Responsibilities of the Commissioning party**

- 11.1** Commissioning party shall at all times, thereto requested and at his/her own initiative, supply all relevant information to Contractor that is required for a correct performance of the assignment granted to him/her.
- 11.2** If information necessary for the performance of the agreed assignment, is not made available or not timely or not in accordance with the agreements made by Commissioning party, or if Commissioning party has not fulfilled his/her (information) obligations in any other manner, Contractor shall have the right to suspend the performance of the Agreement.
- 11.3** In order to let the performance of the assignment proceed orderly and as far as possible according to the time schedule, Commissioning party will timely make staff from his/her own organisation available as a contact person for Contractor. This contact person will, if no use is made of the online reservation system, assist in the preparation of the treatment schedule of employees for the upcoming services and also ensure the reporting of changes in the treatment schedule. If the Commissioning party is using the online reservation system, the contact person will assist in setting up the online reservation system and provide assistance for any changes during the assignment.
- 11.4** The Commissioning party will make space available of at least 3 x 3 meters per masseur for performing the services provided by the Contractor.
- 11.5** If there are ensuing costs to Contractor as a result of the fact that Commissioning party has not, not timely or not properly made staff, requested data, documents, contact persons and facilities available, such costs shall be to the account of Commissioning party.

## **Article 12. Records Management and right of inspection**

- 12.1** If the Commissioning party indicates to value this then the Contractor will keep a record of the relevant employees of the Commissioning party.
- 12.2** In addition to the Contractor only the employee is entitled to inspect this file. The Commissioning party can only obtain access to the file if he has the written authorization therefore provided by the employee specifically for the situation concerned, or provided by a statutory regulation.

## **Article 13. Confidentiality**

- 13.1** Commissioning party and Contractor undertake a duty of secrecy with regard to all confidential information that they have acquired from each other or from another source within the framework of the Agreement. Information shall be considered confidential when this has been indicated as such by the other party or when this ensues from the nature of the information.
- 13.2** If Contractor, on the grounds of statutory provision or court decision, is held to supply confidential information to a third party appointed thereto by law or the competent court and Contractor cannot appeal to any entitlement to refuse to give evidence, Contractor will not be held to any compensation or redress for damages and Commissioning party shall not have the right to annul the assignment on the grounds of any resulting damages.
- 13.3** Commissioning party and Contractor shall impose their obligations based on this article on possible third parties to be engaged by them. Prior to the effective date of the assignment the Contractor shall have imposed a duty of confidentiality as described under 17.1 on all third parties involved for the performance of the services.

## **Article 14. Liability**

- 14.1** Contractor is not liable for any loss of whatever nature that has arisen because Contractor has based himself on incorrect and/or incomplete data supplied by Commissioning party.
- 14.2** Should Contractor be liable for any loss whatsoever, then the Contractor's liability will be limited to the the invoiced amount, that is the part of the amount to which the liability relates.
- 14.3** The liability of Contractor is in any case limited to the amount paid out by his/her insurer in that event. maximally one time the invoice value of the order, at least to that part of the order to which the liability relates.
- 14.4** Contractor is exclusively be liable for direct loss.

- 14.5** Direct loss will exclusively be the reasonable costs to establish the cause and the scope of the loss, for as for as this establishment relates to loss in the sense of these General Terms and Conditions, any reasonable costs incurred to bring the faulty performance by Contractor in line with this Agreement, insofar as these may be attributed to Contractor and reasonable costs incurred to prevent or limit the loss insofar as Commissioning party demonstrates that these costs have resulted in a limitation of the direct loss as referred to in these General Terms and Conditions.
- 14.6** Contractor shall never be liable for indirect loss, including consequential loss, loss of profit, missed savings and loss through work stagnation.
- 14.7** The limitations of the liability included in this article, do not apply when the loss is due to intent or wilful recklessness of Contractor.
- 14.8** The Masseur/Consultant performing services for the Commissioning party is, as an independent entrepreneur, directly liable for the quality of services and has taken out sufficient insurance for this purpose.

#### **Article 15. Intellectual property**

- 15.1** All products or services developed by Contractor on behalf of Commissioning party are and will remain the property of Contractor. This also includes all intellectual property rights, including, copyrights,.
- 15.2** All documents, such as reports, computer programmes, system designs, work methods, advice and contracts provided to Contractor on behalf of Commissioning party, may be used by Commissioning party and may be multiplied by Commissioning party for his/her own use within the own organisation. The documents supplied by Contractor may not be made public, multiplied and/or exploited or made known to any third parties by Commissioning party unless otherwise follows from the nature of the supplied documents.

#### **Article 16. Terms of payment**

- 16.1** Payment will be effected within thirty days after the invoice date in a manner to be indicated by Contractor in euro's, unless expressly agreed otherwise.
- 16.2** If Commissioning party fails to pay in time, he/she is in default by operation of law. The Contractor's obligation to provide services is suspended as from the date on which the payment period has expired. The Commissioning party will owe statutory interest over the amount due as from the date the amount is due.
- 16.3** As from the moment that Commissioning party is in default, the Commissioning party will also be held to reimburse all (extra)judicial costs and enforcement costs relating to the collection of the amounts invoiced. The extrajudicial costs are set at 15% of the principal with a minimum of 40 euro (forty euro) excluding VAT, unless the law stipulates otherwise.
- 16.4** Payments shall in the first place serve to reduce the costs, secondly to reduce the outstanding interest and finally to reduce the principal and the accrued interest.
- 16.5** Complaints concerning the height of the invoice must be lodged in writing within 8 days after the invoice date. After that term, complaints will no longer be taken into consideration and Commissioning party's right to complain will lapse. Commissioning party will never be entitled to settlement of the amount that he/she is due to Contractor.

#### **Article 17. Termination before Term**

- 17.1** Each of the parties is, notwithstanding the right to reimbursement of costs, damages and interest, entitled to terminate the Agreement without judicial intervention with immediate effect by registered letter if:
- the counterparty has not, not completely or not timely fulfilled one or more of her obligations and does not perform her obligations within a term for fulfillment set in a letter sent by registered post;
  - in the event that Commissioning party is liquidated (or a request thereto has been filed), suspension of payment is granted to Commissioning party, Commissioning party is declared bankrupt, the Debt Repayment Natural Persons Act ('WSNP') has been declared to apply to Commissioning party or Commissioning party is placed under guardianship, Commissioning party loses the partial or full disposal of his/her capital or revenues, Commissioning party sells his/her business and/or if attachment is imposed against Commissioning party and this attachment is not lifted within 3 months;
  - the Commissioning party deceases, is placed under guardianship or put in liquidation.
- 17.2** Unless there are changes, provided with the consent of both parties, as stipulated in articles 5.2 and/or 7.2, in case of interim changes of rates, services and/or conditions in multi-annual Agreements, the Commissioning party is entitled to terminate the Agreement before term with a 30 days' notice sent by registered letter.
- 17.3** Contractor is entitled to terminate the Agreement before term without judicial intervention with immediate effect if she deems this reasonably seems necessary due to statutory regulations.
- 17.4** In the event of termination before term by Contractor, Commissioning party will be entitled to the cooperation of Contractor concerning the transfer of activities still to be carried out, to any third parties. If the transfer of the activities incurs additional costs to Contractor, these costs will be charged to the Commissioning party.

#### **Article 18. Force Majeure**

- 18.1** If Contractor cannot, not timely or properly fulfil his/her obligations under the Agreement as a result of a cause that cannot be attributed to him/her, these obligations shall be suspended until the moment that Contractor is able to fulfil these in the agreed manner. Illness on the side of Contractor will in each case be considered as force majeure.
- 18.2** If the period in which fulfilment of the obligations of Contractor is not possible, is longer than two months, parties are authorized to terminate the Agreement without any right of the Commissioning party to compensation for loss. The performance already effected under the Agreement, will then be settled proportionately.

#### **Article 19. Contract takeover**

- 19.1** Commissioning party does not have the right to transfer any obligation from the Agreement to third parties without the written consent of Contractor. Insofar as Contractor may have given written permission for a contract takeover, Commissioning party will at all times be jointly liable with such third party for the obligations from the Agreement of which these General Terms and Conditions constitute a part.
- 19.2** Furthermore, insofar as Contractor may already have given written permission for a contract takeover, Commissioning party shall inform Contractor in advance thereof and Contractor shall have the right to terminate the Agreement as per the date on which the transfer will take place. Contractor shall not be held to pay any compensation for loss in such an event.

#### **Article 20. Applicable law**

- 20.1** All Agreements between Contractor and Commissioning party shall exclusively be governed by the Dutch law.
- 20.2** The applicability of the Vienna Sales Convention (CISG) is excluded.
- 20.3** Without prejudice to the right of Contractor to submit a dispute to the competent court by law, disputes between the parties shall in first instance be submitted to the competent court in the place of business of Contractor, unless prescribed as mandatory by the law.