

# innovativedutch

serious games for serious professionals

## Innovative Dutch General Terms and Conditions of Delivery

This is a legal agreement between the Client and Innovative Dutch for the purchase of courses, simulations or other services.

### Article 1 General

1. The present terms and conditions shall apply to each and every offer, tender and agreement between Innovative Dutch and the Client, to which Innovative Dutch has declared the present terms and conditions applicable, insofar as the Parties have not explicitly deviated from the present terms and conditions in writing.
2. The present terms and conditions shall also apply to all agreements with Innovative Dutch, the execution of which calls for the services of third parties.
3. Possible deviations from the present general terms and conditions shall only be valid provided they have been explicitly agreed upon in writing.
4. The applicability of the Client's possible purchase or other conditions is explicitly rejected.
5. If one or more stipulations in the present general terms and conditions should be null and void or declared null and void, then the other stipulations of the present general terms and conditions shall remain fully applicable. The case ensuing, Innovative Dutch and the Client shall enter into negotiations to agree upon new stipulations replacing the null and void conditions, or, as the case may be, the conditions declared null and void, whereby the purpose and the meaning of the original conditions shall be heeded as far as possible.

### Article 2 Offers and Tenders

1. All offers shall be free of obligation.
2. The prices given in the above-mentioned offers and tenders shall be exclusive of VAT and other government levies, as well as of other expenses to be possibly made within the scope of the agreement, including shipment and administration costs, unless Innovative Dutch indicates otherwise.
3. The prices given in the above-mentioned offers and tenders may be based on estimated data for the courses, simulations or other services. If at the time of the execution of the training, simulation or other services, these data deviates from the estimated data, Innovative Dutch has the right to adjust the offer or tender accordingly.
4. The participants' daily travel to and from the venue for the training is not included in the scope of services and must be organized by the participants or the Client themselves.
5. In case of required travel and accommodation of the instructor of Innovative Dutch, the cost should be carried out by the Client. These additional costs are not included in the initial training offer.
6. If the acceptance deviates (on secondary items) from the offer given, Innovative Dutch shall not be bound by it. The agreement shall in such event not be concluded

in accordance with said deviating acceptance, unless Innovative Dutch indicates otherwise.

7. A compound quotation shall not oblige Innovative Dutch to execute part of the assignment for a corresponding part of the stated price.
8. Offers and tenders shall not apply automatically to future assignments.

## Article 3 Execution of the Agreement

1. If and insofar as required for the proper execution of the agreement, Innovative Dutch shall have the right to have certain work done by third parties. The applicability of article 7:404, 7:407 lid 2 and 7:409 BW (Dutch Civil Code) is excluded.
2. The Client shall see to it that Innovative Dutch shall be provided in due time with all data which Innovative Dutch has said to be necessary or which the Client must in all reasonableness understand to be necessary to the execution of the agreement. If Innovative Dutch has not been provided in due time with the data necessary to the execution of the agreement, Innovative Dutch shall have the right to suspend the execution of the agreement and / or to charge the Client for the additional costs resulting from the delay at the generally accepted rates.
3. Innovative Dutch shall not be liable for damage of whatever nature caused by the fact that Innovative Dutch worked on the basis of incorrect and / or incomplete data provided by the Client, unless Innovative Dutch should have been aware of said incorrectness or incompleteness.
4. The Client shall safeguard the User against possible claims filed by third parties who may sustain damage attributable to the Client in connection with the execution of the agreement.

## Article 4 Changes to the agreement

1. If it is shown during the execution of the agreement that the work to be done needs to be changed and supplemented in order to ensure its proper execution, the Parties shall adapt the agreement accordingly in due time and in mutual consultation.
2. If the Parties agree upon an alteration or addition to the agreement, this may influence the term for the completion of the execution. Innovative Dutch shall inform the Client thereof as soon as possible.
3. Should the change or supplement to the agreement have any financial and / or qualitative consequences, Innovative Dutch shall inform the Client thereof in advance.
4. If a fixed fee has been agreed upon then Innovative Dutch shall indicate the degree to which the change or supplement to the agreement will result in an increase of said fee.
5. In derogation from paragraph 3 Innovative Dutch may not charge additional costs, if the alteration or addition is caused by circumstances that can be imputed to him.

## Article 5 Duration of the Contract; Term of Execution

1. The agreement between Innovative Dutch and a Client shall be entered into for a definite period of time, as long as the execution of the work to be done requires,

unless the nature of the agreement dictates otherwise or if the Parties have explicitly agreed otherwise in writing.

2. If there has been set a term for the completion of certain activities within the term of the agreement, this term is not considered to be a fixed deadline. If the term of execution is exceeded, the Client must consequently declare Innovative Dutch in default in writing.
3. Either party may terminate the agreement in writing at any time.
4. If the agreement is terminated prematurely by the Client, Innovative Dutch shall be entitled to compensation of the loss of capacity utilisation to be demonstrated caused by said premature termination, unless the termination is based on facts and circumstances which can be attributed to Innovative Dutch. The Client shall furthermore be held in that event to pay the statement of expenses for the work done up till that moment. The preliminary results of the work done up till that moment shall therefore be put at the Client's disposal subject to approval.
5. The Client may terminate the course, simulation or other services in writing free of charge up to thirty-one (31) calendar days prior to the start date of the activity. Termination up to seven (7) days before the start date of the activity will be charged 50% according to the price confirmed when the activity was ordered. Termination in less than seven (7) days prior to the training, or non-appearance of the Client at the activity, will be charged 100% according to the price confirmed when the activity was ordered.
6. The rights and obligations formulated in article 6.5 do not waive the Client from obligations formulated in article 6.4.
7. Innovative Dutch shall be authorised to suspend the fulfilment of the obligations under the agreement or to terminate the agreement, in the event that:
  - a. The Client does not fulfil or does not fully fulfil his obligations resulting from the agreement.
  - b. After the conclusion of the agreement, Innovative Dutch learns of circumstances giving good grounds to believe that the Client will not fulfil his obligations. If good grounds exist to fear that the Client will only partially or improperly fulfil his obligations, suspension shall only be allowed insofar as the shortcoming justifies such action.
  - c. The Client was asked to furnish security to guarantee the fulfilment of his obligations resulting from the agreement when the contract was concluded and that this security is not provided or is insufficient.
8. Innovative Dutch shall furthermore be authorised to terminate the agreement (have the agreement terminated) if circumstances arise of such a nature that fulfilment of the obligations becomes impossible or can no longer be demanded in accordance with criteria of reasonableness and fairness, or if other circumstances arise of such a nature that the unaltered maintenance of the agreement can no longer be demanded in all reasonableness.
9. If the agreement is terminated, Innovative Dutch's claims against the Client shall be immediately due and payable. If Innovative Dutch suspends fulfilment of his obligations, he shall retain his rights under the law and the agreement.

10. If Innovative Dutch should have to cancel the courses for important reasons, a full refund from already deposited course fees takes place. Further claims do not exist
11. Innovative Dutch shall always retain the right to claim damages.

## Article 6 Obligations of The Client

1. If Innovative Dutch or third parties engaged by Innovative Dutch within the scope of the assignment do work at the Client's site or at a site designated by the Client, the Client shall provide the employees having to work there free of charge with all facilities desired in all reasonableness by said employees.
2. The Client is responsible for providing the information necessary to prepare and execute courses, simulations or other services in writing prior to the start of the activities to be done or at a definite time indicated by Innovative Dutch. Necessary information includes customer data such as email addresses and detailed time schedules. The Client is also obliged to ensure a good and representative location in which the presence of audio-visual devices is guaranteed. The costs for this will be borne by the Client.
3. The Client will be primarily responsible for informing the students and/or participants of courses, simulations or other services unless otherwise agreed upon by both parties.
4. The activities and costs that are accounted for in the organization of the courses, simulations and other services are the responsibility of The Client unless otherwise stated. In addition to above mentioned cases and in case of individual registration and payment of the participants of the course or simulation, The Client is responsible for the registration and payment of the participants, and all that is necessary for the successful execution before, during, and after courses and simulations.

## Article 7 Force Majeure

1. The Parties shall not be held to fulfil any of their obligations if they are hindered to do so due to a circumstance through no fault of their own and which cannot be attributed to them by virtue of law, a legal action or generally accepted practice.
2. In addition to the provisions of the law and the jurisprudence in this respect, force majeure shall in the present general terms and conditions furthermore be understood to be any external circumstance, be it envisaged or not, on which Innovative Dutch cannot have any influence but which prevents Innovative Dutch from fulfilling his obligations.
3. In case of a seminar cancellation due to illness of the lecturer, insufficient number of participants, severe flight or train delays, as well as other events for which we are not responsible or force majeure, there shall be no claim to having the seminar take place. We assume no liability for other immediate damages and costs such as loss of income, travel expenses, consequential and pecuniary damages of any kind. Industrial action at Innovative Dutch's company shall also be understood to be a circumstance of force majeure.
4. Innovative Dutch does not warrant that the provision of any content online will always be available or be uninterrupted, timely or error free, that defects will be

corrected or that such content is secure or free from bugs, viruses, errors and omissions.

5. Innovative Dutch shall also be entitled to invoke force majeure if the circumstance rendering (further) fulfilment of the obligation(s) impossible, commences after the point in time at which Innovative Dutch should have fulfilled his obligations.
6. Throughout the duration of the circumstances of force majeure, the Parties shall be entitled to suspend the fulfilment of their obligations. If this period lasts for more than two months, either of the Parties shall be entitled to dissolve the agreement without any obligation to pay the opposite party damages.
7. Insofar as Innovative Dutch has already partially fulfilled his obligations resulting from the agreement at the moment the circumstance of force majeure commenced or shall be able to fulfil them and insofar as separate value can be attributed to the part already fulfilled or still to be fulfilled respectively, Innovative Dutch shall be entitled to invoice the part already fulfilled or still to be fulfilled respectively. The Client is required to meet the claim for payment as if that part of the contract had been a separate contract.
8. If, on behalf of Innovative Dutch, a trainer, instructor, coach, or other person is in charge of the execution of the courses, simulations or other services is entitled to invoke force majeure, Innovative Dutch has the right propose a replacement for the trainer, instructor, coach or other person. Should it not be possible to propose a replacement, a new date will be set by mutual agreement.

## Article 8 Payment

1. Payment must be made within thirty (30) days from the date of invoice, in a way to be indicated by Innovative Dutch and in the currency in which the statement of expenses was drawn up. Contestation of the amount of the statements of expenses shall not suspend the fulfilment of the payment obligation
2. If the Client fails to fulfil his payment obligation within the term of thirty (30) days, then the Client shall be in default by operation of law. In that event, the Client shall owe an interest of 1% per month, unless the statutory interest rate is higher, in which case the statutory interest rate shall apply. The interest on the amount due and payable shall be calculated as from the day the Client is in default until the moment he has paid the amount in full.
3. Innovative Dutch's claims against the Client shall become due on demand in the event that the Client's company is wound up, attached, declared bankrupt, or if a suspension of payments is granted.
4. Innovative Dutch shall be entitled to have the payments made by the Client go first of all to reduce the costs, subsequently to reduce the interest still due and finally to reduce the principal sum and the current interest. Innovative Dutch shall have the right, without this leading Innovative Dutch to be in default, to refuse an offer for payment, if the Client designates a different sequence of attribution. Innovative Dutch shall be entitled to refuse full payment of the principal sum, if said payment does not include the interest still due, the current interest and the costs.

## Article 9 Intellectual Property and Copyrights

1. Without prejudice to the other stipulations of the present general terms and conditions, Innovative Dutch shall reserve the rights and authorities to which Innovative Dutch is entitled under the Copyright Act.
2. All documents, such as reports, advice, agreements, designs, sketches, drawings, software, etc., provided by Innovative Dutch, shall be destined to be used by the Client exclusively and may not be reproduced, made public or brought to the notice of third parties by the Client without prior consent from Innovative Dutch, unless the nature of the documents provided dictates otherwise.
3. Innovative Dutch shall reserve the right to use the knowledge gained due to the execution of the work for other purposes, insofar as no confidential information shall be brought to the notice of third parties when doing so.

## Article 10 Data Privacy

1. The customer data will be protected under (a) The General Data Protection Regulation (GDPR), the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003; and (b) any other legislation in force from time to time relating to privacy and/or the Processing of Personal Data and applicable to the provision and receipt of Training under these Terms and Conditions; and (c) any statutory codes of practice issued by the Information Commissioner in relation to such legislation.
2. As between the Parties, the Client and participants of the courses, simulations or other services shall own all right, title and interest in and to all of the customer data.
3. The Client grants Innovative Dutch an irrevocable, unlimited and royalty-free licence to use the customer data provided to Innovative Dutch for the purposes of providing the activity.
4. Each Party warrants that for the purposes of this Agreement it (a) shall comply with the provisions of the Data Protection Legislation, including without limitation that it (1) shall use personal data in accordance with the permissions or consents obtained from the data subjects (as defined in the Data Protection Legislation) or otherwise in accordance with the Data Protection Legislation; (2) shall communicate to the other party the terms of any permissions or consents obtained from the data subjects; (3) shall have in place appropriate technical and organisational security measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data and shall take all reasonable steps to ensure the reliability of its personnel who have access to such personal data and to impose obligations of confidentiality upon such personnel and to ensure that such personnel are aware of their responsibilities under the Data Protection Legislation; (4) shall not transfer personal data outside the European Economic Area save in accordance with the Data Protection Legislation; (5) shall comply with any request or notice it receives from a data subject in its capacity as a data controller; (b) shall upon request provide such assistance as is reasonably necessary to the other party to enable that party to comply with its obligations as a data controller (as defined in the

Data Protection Legislation); (c) shall inform the other party as soon as reasonably practicable of the discovery of any actual or suspected data-breach relating to the Processing of Personal Data in connection with this Agreement; (d) shall, except to the extent prohibited by applicable law, inform the other party upon receipt of a complaint from a data subject or if approached by any regulatory body in connection with its compliance with the Data Protection Legislation in connection with this Agreement; (e) shall, except to the extent prohibited by applicable law, consult the other party in good faith as to the timing, manner and content of any response to a complaint from a data subject or approach by any regulatory body in connection with compliance with the Data Protection Legislation in connection with the Agreement.

## Article 11 Secrecy

5. Both the Parties shall be bound to secrecy of all confidential information they have received within the scope of their agreement from each other or from another source. Information shall be considered to be confidential if the other party has indicated so or if the confidentiality derives from the nature of the information.
6. If a statutory provision or a judicial decision compels Innovative Dutch to convey confidential information to third parties designated by law or by the court and Innovative Dutch cannot for that purpose invoke a legal right to refuse to give evidence or such a right acknowledged or allowed by the competent court, Innovative Dutch shall not be held to pay damages or compensation and the opposite party shall not be entitled to demand the dissolution of the agreement on the grounds of any damage resulting from said circumstance.

## Article 12 Liability

1. If Innovative Dutch is liable, this liability is limited to what is regulated by this provision.
2. The limitations of liability for direct damage contained in the present terms and conditions shall not apply if the damage is due to intentional act or omission or gross negligence on the part of Innovative Dutch or his subordinates.
3. Innovative Dutch shall execute the agreement to the best of his knowledge and ability, all based on the current state of the art. Innovative Dutch cannot be held liable for unknown harmful consequences resulting from the training, simulation or services.
4. Innovative Dutch cannot guarantee the absence of any errors or omissions in the manual, teaching materials, simulations, workshops, seminars, trainings, conferences, masterclasses. Innovative Dutch accepts no liability on that matter.
5. Innovative Dutch shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, loss of income, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising.

6. The data, including the final ranking and other scores in the simulations of Innovative Dutch, is not suitable for reinterpretation for any other purpose than the courses, simulations or other services itself. Innovative Dutch shall not be liable for any consequences, including personal loss of income, loss of business, loss of function or role or any indirect consequential loss or otherwise, for career development, performance reviews, personal assessment, evaluation interviews or otherwise directly or indirectly resulting from misinterpreting personal or group data from the courses, simulations or other activities.
7. The total aggregate liability of Innovative Dutch in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the Agreement shall be limited to the total charges paid for the courses, simulation or other services with a maximum of €5.000,00 (five thousand euros).
8. Under no circumstances will Innovative Dutch's liability exceed the amount paid out by his insurer under the third-party indemnity insurance Innovative Dutch has taken out.
9. All claims on the part of the Client in the sense stated in this Article must be submitted within one year of the discovery of any loss, failing which the Client's rights will be deemed to have lapsed.

#### Article 13 Applicable Law

1. Dutch law shall apply to each and every agreement between Innovative Dutch and the Client.
2. These general conditions are available in Dutch and English. In case of a dispute regarding their contents or intention, the Dutch language and version is binding.