

# General Terms & Conditions

## Aqua Platform



**aquaplatform**

Aqua Platform B.V.  
Jonkersvaart 36  
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The Netherlands

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## 1 Introduction

This document contains the General Terms & Conditions of Aqua Platform BV established in Groningen, The Netherlands, registered with the Trade Register of the Chamber of Commerce under file number 624.167.90.

The General Terms & Conditions apply to all services and products supplied by or on behalf of Aqua Platform BV. Furthermore, Supplemental Terms & Conditions may have been formulated for specific products and services.

## 2 Definitions

Supplier is understood to mean Aqua Platform BV established in Jonkersvaart, The Netherlands.

Product is understood to mean the materials or goods supplied by Supplier.

Service is understood to mean each activity carried out by Supplier that does not resort under the description of Product.

Client is understood to mean the natural person or legal entity who purchases a Product or Service from Supplier.

Agreement is understood to mean an arrangement between Supplier and Client pertaining to the supply of Products and/or Services by Supplier to Client. The Agreement contains specific arrangements on the provision of services and products and constitutes one entity with the General Terms & Conditions and (if applicable) the Supplemental Terms & Conditions for the respective Products and/or Services.

## 3 Applicability of these General Terms & Conditions

These General Terms & Conditions apply to all offers, tenders, Contracts, Products and Services from Supplier, and to all other actions and activities carried out by Supplier.

By entering into an Agreement with the Supplier, the Client declares to have been informed about these General Terms & Conditions, any applicable Supplemental Terms & Conditions, as well as that the Client agrees with these Conditions.

By entering into an Agreement with the Supplier, the Client expressly declares that purchasing or any other conditions of the Client do not apply to the Agreement.

If any provision from these General Terms & Conditions or any relevant Supplemental Terms & Conditions should be or become void, then the other provisions of these General Terms & Conditions shall remain fully in force. Supplier and Client shall in such a situation immediately enter into consultations in order to agree on new provisions replacing the provision that are or have become void, whereby the objective and meaning thereof will be taken into account as much as possible.

The Agreement will take precedence over these General Terms & Conditions in case there is a conflict between the Agreement and these General Terms & Conditions. Arrangements that are agreed in addition to, or conflict with these General Terms & Conditions or the relevant Supplemental Terms & Conditions, should be recorded in writing in the Agreement, and signed by the Client and the Supplier.

Supplier is always authorised to modify these General Terms & Conditions or Supplemental Terms & Conditions. Modifications will come into force 60 days after the Client has been informed about them. If Client does not agree with all or part of the modifications, he is entitled to annul the Agreement as per the date of the modified conditions coming into force.

These General Terms & Conditions version 2.0.1 come into force per February 15, 2018. Previous versions are no longer valid as per that date. The only change in version 2.0.1 versus the previous version is the new company address.

## **4 Agreements**

### **4.1 Materialisation of an Agreement**

All offers and tenders of Supplier are free of obligations, unless explicitly stated otherwise in the offer or the tender. A formulated tender does not oblige Supplier to supply a part thereof against a corresponding part of the price offered.

The Supplier can state a period of validity for each offer or tender. If no period of validity is stated, a period of validity of 21 days shall be assumed.

After acceptance of the offer by Client, immediate revocation by Supplier is possible. In case of revocation the Agreement does not materialise and Supplier is therefore obliged to repay all payments that have already been received from Client. Supplier can refuse a prospect Client for reasons of its own.

An Agreement can materialise in two ways:

- if the Client confirms the offer or tender in writing, per e-mail, or in way to be specified further;
- if the client starts using or purchasing the Product or Service from the offer or tender. In the latter case the Supplier shall send a confirmation of the materialisation of the Agreement to client in writing or per e-mail.

Client herewith authorises Supplier to include his or her personal data in a personal register, in as far as necessary for the implementation of and compliance with the Agreement. This personal register is only accessible for Supplier and shall not be made available to third parties, unless Supplier is obliged to do so by virtue of the Law or a judicial verdict.

#### **4.2 Duration of an Agreement**

The Agreement is entered into for the term as determined in the Agreement, or the term that is stated in the offer and/or the Supplemental Terms & Conditions for the respective Product/Service. If both the Agreement and the Supplemental Terms & Conditions do not state provisions with regard to the duration of the Agreement, then a term of one (1) year automatically applies.

#### **4.3 Renewal of an Agreement**

An Agreement shall be renewed in accordance with the arrangements established thereto in the Agreement or in accordance with the provisions in the Supplemental Terms & Conditions for the respective Product/Service. If both the Agreement and the Supplemental Terms & Conditions do not contain provisions with regard to renewals, then the Agreement is tacitly renewed with a period equal to the period that ends at that time.

#### **4.4 Cancellation of an Agreement**

Both the Supplier and the Client are entitled to cancel an Agreement with due regard of the cancellation term agreed to in the Agreement or the cancellation term as recorded in the Supplemental Terms & Conditions for the respective Product/Service. If both the Agreement and the Supplemental Terms & Conditions do not contain provisions with regard to the cancellation term, a period of one (1) week applies in case of short-term Agreements (shorter than 3 months), and a period of one (1) month applies in case of long-term Agreements (3 months or longer).

Both the Supplier and the Client are entitled to immediately cancel an Agreement if:

- the counterparty has (temporarily) filed for postponement of payment or this has been granted to him;
- the counterparty is in state of bankruptcy or a claim for bankruptcy has been filed against him;
- the company of the counterparty is liquidated;
- the activities of the counterparty have factually ceased to exist;
- the counterparty is in default.

## **5 Implementation of an Agreement**

### **5.1 Information obligation and collaboration**

The Client obliges himself to provide the Supplier with all necessary data that the Supplier needs in order to be able to supply the Product or carry out the Service. The Supplier obliges himself to explicitly indicate as soon as possible which information is needed and to offer and/or start using a suitable communication channel for the respective information.

If the Supplier depends on the collaboration of the Client for the supply of the product and/or carrying out the Service then the Client obliges himself to provide the necessary collaboration. The Supplier obliges himself to explicitly indicate as soon as possible what the collaboration should consist of.

The Client is aware that when the necessary information from and/or collaboration by the Client is lacking this can result in a delay of the supply of the Product and/or carrying out the Service. If the occasion arises, the Supplier shall inform the Client on this.

## **5.2 Confidentiality**

Both parties are obliged to confidentiality towards third parties with regard to data of a confidential nature in whichever form, unless prior permission has been granted for this, or when this data within reason can be regarded as non-confidential, or if the counterparty has published this data in any way by itself. If one of the parties is obliged by virtue of the Law or a judicial verdict to provide data on the counterparty to government authorities or to agencies appointed to that means by the authorities, the confidentiality obligation for that specific situation lapses.

Supplier shall treat data from or on Suppliers, Agreements, and Products and Services supplied with due diligence. Data is not provided to third parties. Data is not made available to government agencies unless a legal obligation or a judicial measure exists to that means.

Supplier shall register and keep information on the Client, including personal data on representatives of the Client, only when this is needed for the execution of activities within the framework of the Agreements entered into in this respect.

## **5.3 Transfer of Agreement**

Neither Party may transfer the Agreement to a third party, without permission from the other Party. If permission for the transfer of the Agreement to a third party is requested, permission will not be withheld unless the other party has a reasonable objection. A transfer of the Agreement to a third party must be requested at least 60 days in advance, unless the Parties mutually agree on a shorter term.

## **5.4 Use of a Product and/or Service**

The Client is not permitted to use a Product and/or Service for actions or activities which violate the Law, good manners, public order, these General Terms & Conditions, or the relevant Supplemental Terms & Conditions.

## **5.5 Maintenance of Products**

Supplier is not obliged to carry out maintenance to a supplied Product, unless explicit written arrangements have been agreed on this.

## **6 Invoicing and Payment**

### **6.1 Invoicing**

All amounts as mentioned in an offer, tender, or Agreement are expressed in Euros and are stated excluding VAT and possible other levies imposed by the authorities. For the purpose of invoicing, VAT and other levies will be added to the amount to be invoiced.

Amounts possibly stated in other currencies are only indicative and will be calculated by the then current exchange rate. If Supplier formulates an invoice at the request of Client in another currency than Euros, the exchange rate that applies at the time of invoicing will be used for that.

Supplier will charge the amount(s) due by Client by means of an invoice.

If Client is of the opinion that the invoice is incorrect or that any other impertinence exists on the invoice, he shall immediately inform the Supplier on this, and no later than 14 days after receipt of the invoice. The Supplier shall correct the invoice if necessary.

### **6.2 Payment**

Unless there are specific provisions in The Agreement, the Client will pay the invoice in full within a term of fourteen (14) days, to be counted from the invoice date. The invoice date is the date stated on the invoice. The moment of payment is the moment on which the full amount due has been received by Supplier.

If Client did not or not fully pay the invoice after the expiration of the payment term, Supplier will send a reminder to Client. If Client does not pay the full amount due as soon as possible but at the latest with fourteen (14) days after the reminder, the Client is in default without further proof of default. Supplier will then send Client a short, informative message on this.

From the date on which Client is in default, Supplier is authorised to charge the legal interest on the amount due by Client and possible judicial and extra-judicial costs of collection (calculated in accordance with the collection rate of the Dutch Bar (Nederlandse Orde van Advocaten)) are at the expense of the Client. Supplier can also decide at that moment to collect the claim by means of a bailiff, collection agency, or legal proceedings.

Supplier is also authorised to postpone the compliance with all or a part of the obligations of Supplier as per the date on which the Client is in default.

## **7 Warranty, Liability, and Force Majeure**

### **7.1 Warranty**

Client should ascertain before entering into an Agreement that the Product and/or the Service the Supplier offers is suited for the objective intended by Client.



Supplier guarantees the quality and/or suitability of supplied Products and Services for the application as described by the Supplier. If the occasion arises, written arrangements will be made for this, including quality characteristics and testing criteria. If Client is of the opinion that the supplied Products and/or Services do not comply with these quality characteristics or testing criteria, he shall inform Supplier about this within two weeks after the delivery and/or performance. Supplier subsequently is permitted a two week period to investigate the established faults as well as to remedy them if necessary and/or possible.

If Supplier appears not to be capable to remedy a shortcoming in supplied materials or products, an alternative or emergency solution will be searched for upon proper consultations. A (partial) restitution of the price of the Product and/or the Service can be intended with this as well.

## **7.2 Liability**

The use of the Products and/or Services supplied by the Supplier is at the own risk of the Client. Supplier rejects any liability with regard to damage, directly or indirectly (including without limitations losses resulting from, special, indirect or additional damage, loss of business profits, hindrance of business operations, costs in order to prevent or establish damage, loss of business information, or other financial losses) which result from the use of or the inability to make use of the Product or the Service. If the court decides differently then any liability will in no case be higher than the price paid by the Client for the Product and/or Service.

Client indemnifies Supplier against claims from third parties regarding remuneration of damage that those third parties could claim on Supplier in any which way. Supplier is not responsible for the contents of the information made available by the Client by means of the Product and/or the Service(s).

## **7.3 Force Majeure**

The Supplier cannot be obliged to comply with the obligations towards the Client if the Supplier is hampered at that as a result of circumstances that can not be attributed to the Supplier or that are imposed on the Supplier by the Law. If Force Majeure is concerned, Supplier shall inform Client on this as soon as possible.

Circumstances that are understood to mean Force Majeure include but are not limited to: severe illness, strikes, exclusions, government measures, extreme weather conditions and natural disasters, disruptions and delays in the supply of goods and materials, the non-compliance with obligations by suppliers, sub-contractors, or service providers of Supplier, or interruptions/disruptions of the gas, electricity, telephone, or internet networks. These conditions also include any event or modification as a result of which the compliance with the Agreement has become so problematic and/or costly compared to the moment that the Agreement was entered into, that compliance can no longer be expected from Supplier within reason, such to the judgment of Supplier. In the latter case, the Supplier shall immediately contact the Client in order to hold consultations on a possible prolongation of the Agreement, whilst adapting to the modified circumstances.

During the period of Force Majeure, Supplier is not obliged to comply with the arrangements resulting from the Agreement. If the period of Force Majeure lasts longer than the time duration as specified in the Agreement then the Client is entitled to annul the Agreement in accordance with Article 6. The Supplier shall in such cases offer all reasonable cooperation and collaboration to enable the Client to migrate to an alternative service offered by a third party. The Client is not entitled to remuneration of costs and/or damages in any form whatsoever from the Supplier.

The right to annul the Agreement lapses as soon as the situation of Force Majeure has been lifted and the Client has not yet made use of this right of annulment.

## **8 Intellectual Property and Applicable Law**

### **8.1 Intellectual property**

Supplier has and maintains the full intellectual property on all materials and works that are manufactured within the framework of an Agreement with Client, unless otherwise agreed in writing in advance.

Supplier retains the right to use increased knowledge acquired during the execution of the activities performed within the framework of an Agreement for other purposes, with the exception of confidential information of Client.

Client indemnifies Supplier against liability with regard to the intellectual property of all materials and works made available by Client.

### **8.2 Dutch Law**

Dutch Law exclusively governs these General Terms & Conditions and any Agreement between Client and Supplier.

All disputes with regard to, resulting from, or otherwise related to these General Terms & Conditions and any Agreement between Client and Supplier shall be presented to the competent Dutch judge in the place of establishment of Supplier.