

General Conditions governing supply of services by DSM Resolve

These General conditions governing supply of services by DSM Resolve ('General Conditions') govern the performance of contract research, supply of services and giving of advice by DSM Resolve, a department of DSM Research B.V., established at Geleen the Netherlands ('DSM Resolve').

Article 1 - Agreement

1.1 The present General Conditions apply to all offers, providing of professional services and agreements (in the following referred to as: 'the Agreement') between DSM Resolve and a third party (in the following referred to as: 'the Client') relating to performance of research and/or consultancy services and performance of work, for instance in the area of intellectual property, by DSM Resolve for the Client (in the following referred to as: 'the Work'). The Work will be performed based on DSM Resolve's broad experience and its in-depth knowledge of analytical methods (in the following referred to as: 'Analytical Knowledge').

1.2 Offers made by DSM Resolve are free of engagement. An Agreement is not binding for DSM Resolve until an order confirmation in writing has been given by DSM Resolve.

1.3 In case the Client has direct access to the order system of DSM Resolve (in the following referred to as: 'Pyramid'), the agreement is binding after acceptance of the offer by the Client in electronic form using the functionality offered therefore through Pyramid.

Article 2 - General conditions

It is explicitly agreed that the present General Conditions between DSM Resolve and the Client exclude the application of any conditions or stipulations, of any nature whatsoever, applied by the Client, even if priority is claimed in such conditions or stipulations.

Article 3 - Samples

3.1 If the Client provides DSM Resolve with any samples that have to be examined the Client shall see to it that these are carefully selected and are representative and are correctly provided with code, brand and product name indications. If samples have hazardous properties, the Client shall clearly communicate these in writing to DSM Resolve and shall mark the samples as hazardous.

3.2 Unless agreed otherwise, samples or, as the case may be, what is left thereof, which the Client has made available to DSM Resolve in connection with the execution of the Agreement, shall immediately be picked up at DSM Resolve by the Client upon completion of the Work and the Client shall give DSM Resolve a confirmation of receipt for this. If the Client fails to pick up the (remnants of the) samples within two (2) weeks after finalizing the Work, DSM shall have the right to store, to destroy or dispose otherwise of these for risk and account of the Client.

Transport and storage of the samples and the remnants thereof shall be for risk and account of the Client.

Article 4 - Results of the Work

4.1 The ownership of the results of the Work shall solely vest in Client. However, the know how and results of the Work pertaining to the enhancement of Analytical Knowledge and/or one of DSM Resolve's working methods shall solely remain with DSM Resolve.

Article 5 – Quality and storage of results

5.1 DSM Resolve is working according to a managementsystem based on ISO 9001-2000. To continuously improve the work process of DSM Resolve, client surveys and other means of quality assessment are used.

5.2 It is the responsibility of the Client to store the results of the Work for later use. DSM Resolve will use its best efforts to store the raw data of the Work for a period of 1 (one) year after it reported the results to Client. However, DSM Resolve can not be held responsible for the storage of the results of the Work and raw data after reporting the results of the Work to Client.

Article 6 - Price and payment

6.1 The price to be paid by the Client for the Work shall be stated in DSM Resolve's offer. If, however, in DSM Resolve's order confirmation an amount is stated which differs from that in the offer, the order confirmation shall prevail. At the Client's request the invoice shall be specified by DSM Resolve. If no fixed price has been agreed upon, then it shall be understood between the Client and DSM Resolve that the amount due will be determined on the basis of subsequent costing. Unless it is stated to the contrary in the offer (or in the order confirmation), the amount due is exclusive of all charges, taxes (such as VAT), variable costs (such as costs of classification, translations, photos, drawings and authentications), levies, costs of work connected with responding to judicial objections and third-party actions (such as opposition proceedings and lawsuits) and all external costs, which shall be for the Client's account. The Client shall effect payment within 30 days of the date of mailing of the invoice.

6.2 For Clients having an SAP invoicing relation with DSM Resolve, invoicing will be performed via the SAP connection with the respective Client. In addition, the Client will receive a pro-forma invoice via e-mail, which invoice shall be deemed an invoice as stipulated under 6.1 hereof.

6.3 If the parties agree that additional Work will be performed than initially specified in the Agreement, then such additional Work shall be performed subject to the same conditions as originally agreed upon, unless the parties agree otherwise, explicitly and in writing. DSM Resolve will send an updated offer to be accepted by the Client.

6.4 DSM Resolve retains title to all goods which it makes available to the Client in the framework of the assignment until the moment that the amount(s) which the Client owes to DSM Resolve in relation with the assignment has/have been fully paid.

Article 7 - Contracting out

DSM Resolve has the right to contract work out to any entity in which Koninklijke DSM N.V., the ultimate parent company of DSM Resolve, has an interest ("Affiliate"). Affiliates are hold to all stipulations of the current contract. The Client's approval shall be required for the involvement of third parties not being Affiliates in the performance of an assignment if and in so far such involvement of any third party entails confidentiality risks. The liability stipulations laid down in article 8 below shall apply in relation with Work carried out by such Affiliates and third parties and shall be applicable mutates mutandis to such third parties.

Article 8 - Liability and guarantee

8.1 DSM Resolve shall perform the Work to the best of its ability, without giving any guarantee, however, that any result envisaged by the Client will be achieved. Furthermore, DSM Resolve may, at its sole discretion, guarantee a specific quality or trace ability of the results of the Work.

8.2 The Client shall provide DSM Resolve with all available relevant information which may be useful in the performance of this Agreement. By 'relevant information' is understood for instance: older similar cases, important events, previous

patent applications and publication in the same area as that to which the Agreement relates. The Client shall indemnify DSM Resolve against any liability towards third parties for damage caused by incorrect information having been provided to DSM Resolve. If DSM Resolve presents documents to the Client for approval and comment, it shall be the Client's duty to check these for any errors and inaccuracies, also with respect to the technology covered.

8.3 DSM Resolve shall only be liable for the damage suffered by the Client as a result of imputable non-performance or delayed performance on the part of DSM Resolve or by employees, Affiliates or third parties called in by DSM Resolve, but only up to a maximum equal to the amount that the Client owes to DSM for the performance of the relevant Work. This restriction of liability does not apply in the case of damage which is attributable to an intentional act or omission or gross negligence. If the performance of an Agreement takes more than one year, DSM Resolve's liability shall be limited to the (average) yearly amount that the Client owed to DSM Resolve in the past year(s). DSM Resolve shall in no case be liable for indirect or consequential damage.

8.4 The Client shall indemnify DSM Resolve and the persons involved by DSM Resolve in the performance of the Agreement against all claims from third parties on account of damage suffered by them due to application or use of the results of the Work by the Client or someone else who has directly or indirectly obtained those results from the Client.

8.5 DSM Resolve does not accept liability for damage incurred owing to the circumstance that the results of the Work cannot be used in judicial proceedings or owing to infringement of third-party rights resulting from use or application of the results of the Work.

8.6 Claims of the Client against DSM Resolve which arise from or are in any other way connected with the Agreement or (performance of) the Work done by DSM Resolve or by persons or third parties called in by DSM Resolve in the performance thereof shall become completely void if they have not been notified explicitly and in writing to DSM Resolve within 3 months of the date of the final invoice.

Article 9 - Premature termination

If the Client fails to fulfill any essential obligation under the Agreement or fails to do so on time and/or correctly, as well as if the Client's company is involved in (an application for) bankruptcy, liquidation or dissolution proceedings or has applied for or has been granted a moratorium, DSM Resolve shall be entitled to suspend or terminate the Agreement in whole or in part by means of a registered letter, without any notification of default or judicial intervention being required and without DSM Resolve thereby incurring an obligation to pay any form of indemnification, without prejudice to all other rights of DSM Resolve. As soon as any of the aforementioned circumstances arises, all debts the Client owes to DSM Resolve shall become payable at once.

Article 10 - Confidentiality

10.1 In so far as the results of the Work relate to the Client's company or his business operation, DSM Resolve shall keep them secret and not divulge them to third parties, except in the case of a legal stipulation or judicial order whereby DSM Resolve is obliged to do so. Other results of the Work shall also be kept secret by DSM Resolve for a period of two years counting from the date of the final invoice. However, excluded from this confidentiality obligation of DSM Resolve are the know how and results of the Work pertaining to the enhancement of Analytical Knowledge and/or DSM Resolve's working methods.

10.2 The Client shall observe secrecy in respect of all information which may come to his knowledge in respect of DSM Resolve's business or business operation, working methods and Analytical Knowledge.

Article 11 - Safety

11.1 If DSM Resolve employees or persons called in by DSM Resolve carry out the Work in whole or in part on sites designated by the Client, the Client shall see to it that these DSM Resolve employees and persons are informed, clearly and on time, about the safety rules to be respected on those sites. The DSM employees and persons called in by DSM shall comply with such rules.

11.2 If DSM Resolves rules in respect of personal safety go beyond those of the Client or if the DSM Resolve's employees or persons called in by DSM Resolve are of the opinion that enhanced safety standards should be applied on the spot, they shall be entitled to act in accordance with the DSM Resolve rules or, as the case may be, said enhanced safety standards. If in the opinion of any such DSM Resolve employee or third party the situation is such that the Work cannot be carried out in a safe manner and the Client is unable or not prepared to take adequate measures to remedy this situation, DSM Resolve shall be entitled to suspend or terminate the Agreement in whole or in part, without the Client having any right on that ground to claim indemnification from DSM Resolve.

Article 12 - Hiring of personnel

For a period of at least two years counting from the date of termination of the Work by DSM Resolve under the Agreement, the Client shall not hire any of the DSM Resolve personnel who have been involved in performance of the Work, unless DSM Resolve has authorized the Client in writing to do so.

Article 13 - Force majeure

DSM Resolve shall not be liable for any lasting or temporary failure beyond its control in the performance of its obligations under the Agreement if such failure is a consequence of force majeure, which shall be understood to mean, among other things, such situations as war, riot, sabotage, labour unrest, strikes, fire, earthquake, sickness of employees, break down of critical instrumentation, accidents, compliance with requests or orders from government agencies. If any of the above-mentioned circumstances has arisen and as a result DSM Resolve is unable, for an uninterrupted period of at least three (3) months, to fulfil its obligations, the Client shall be entitled to terminate the Agreement with immediate effect through notification in writing, but the Client shall not be entitled on that ground to claim indemnification. DSM Resolve shall have the right to claim payment for the Work performed prior to the date of commencement of force majeure.

Article 14 - Setting off

DSM Resolve, which in this connection shall be understood to include all Affiliates, has the right to set off all amounts owed to DSM Resolve by the Client, in this connection understood to include all companies associated with the Client within a group, against amounts owed by DSM Resolve to the Client.

Article 15 - Separability

These General Conditions are deemed to be separable and if any part thereof, for any reason whatsoever, should be void or otherwise of no effect, the rest of these General Conditions shall continue in full force and effect. The void part hereof shall be deemed to have been replaced by terms and conditions which as much as possible and allowable have the same effect as the void part.

Article 16 - Applicable Law / Competent Court

16.1 The present Agreement shall exclusively be governed by the laws of the Netherlands, excluding its conflicts of laws principles.

16.2 Any disputes which may arise in connection with the present Agreement shall exclusively be submitted by the parties to the competent judge at the District Court of Maastricht, without prejudice to the right to take to appeal a judgement pronounced by such judge.

DSM Resolve
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