

RAINBOW COLLECTION

GENERAL TERMS AND CONDITIONS

Rainbow Collection BV

1. Definitions

1.1 In these general terms and conditions (“ Conditions”) are defined:

a) Client: every individual or corporation to whom *Rainbow Collection* services delivers, or with whom *Rainbow Collection* has a contract or with whom *Rainbow Collection* has agreed or is in contract discussions;

b) Contract and/or Agreements: every agreement set up between *Rainbow Collection* and Client, each change or modification thereon, and all (legal) discussions in preparation and implementation of, and handlingen a Contract;

c) Services: all activities in whatever form (services, taking on of work, loaning of personnel, advice etc), that *Rainbow Collection* does on behalf of the Client;

d) Products: all things, understood as documents, reports, advices, results, databanks, concepts (including product concepts), presentations and all results of work done by *Rainbow Collection*, which are part of the Contract;

e) Offer: offer (or costing) in whatever form from *Rainbow Collection* to the Client;

f) Mandate: every mandate given by the Client, in whatever form that is;

g) Parties: Client and *Rainbow Collection* jointly.

2. Relevance, changes and additions

2.1 These Terms and Conditions are part of all Agreements, and are applicable to all general and legal discussions between *Rainbow Collection* and Client, also where such discussions do not result in, or are not part of, a Contract.

2.2 The applicability of some terms and conditions of the Client may be explicitly rejected by *Rainbow Collection*.

2.3 Changes and additions to Contracts or Agreements that have specific implications for the Contract or Terms and Conditions can only be made if agreed in writing between the parties.

2.4 Whenever a change or addition to the Terms and Conditions, as referred to under item 3, is made, then this change affects only the specific Contract involved.

3. Offers and Establishment of Contracts

- 3.1 An Offer is not binding for *Rainbow Collection* and is valid only as an invitation to the placement of a Contract by the Client. The Offer made by *Rainbow Collection* is valid for a period of 14 days from the date of signature by *Rainbow Collection* , unless otherwise indicated.
- 3.2 An Agreement is only formally established if and when *Rainbow Collection* accepts in writing to implement the Client's Contract, unless the Client can prove that *the Rainbow Collection* has unconditionally accepted the Contract. In the case that, on request, *Rainbow Collection* carries out any work prior to full and formal agreement is reached on payment terms and conditions, then the Client will, in compliance with the terms given in articles 4 and 5 of these Terms and Conditions, make payment on basis of the applicable tariffs of *Rainbow Collection* .

4. Prices

- 4.1 All prices of *Rainbow Collection* are given in Euro's, and exclude Value Added Tax (VAT or BTW) and other governmental charges unless otherwise indicated. Costs other than consultancy rates (for example travel and other extra costs) will be declared separately to the Client, and are due to be paid within 30 days of invoicing.
- 4.2 Unless otherwise agreed, a Contract will be invoiced and paid as follows:
- a) 50% on commencement of work;
 - b) 50% on completion of work.
- 4.3 In the event that extra costs have been made by *Rainbow Collection* to complete the agreed work, then all such costs, including services and travel, costs of materials, and all other reasonable costs made in completing the work will be booked to the Client. In this case *Rainbow Collection* will submit a full invoice listing all these extra costs.

5. Payment

- 5.1 The Client will pay the invoiced costs within 30 days of the invoice date to the designated *Rainbow Collection* bank account. Objections to such charges do not affect the payment times.
- 5.2 All objections concerning invoices and their contents must be submitted within 10 days to *Rainbow Collection* . If this is not possible, for reasons outside the control of the Client, then such objections should be communicated to *Rainbow Collection* as soon as is reasonably possible.

- 5.3 The Client is not entitled to offset his/her costs against those of *Rainbow Collection*, unless permitted to do so on the basis of a legal judgement or arbitration.
- 5.4 The Client does not have the right to suspend it's obligations, unless the Client brings such dispute within 30 days to the competent court in accordance with Article 15 of these Terms and Conditions.
- 5.5 In the case that at any moment, concerns arise at *Rainbow Collection* concerning the credit-worthiness of the Client, and/or the situation where the Client more than once incorrectly or does not pay on time , has *Rainbow Collection* the right, before proceeding with agreed work, to demand that the Client pays for any further work in advance of it being carried out. Or that he/she provides adequate security that the amount will be paid in full asap.
- 5.6 The Client is, without further consultation, on any amounts not paid by the last day of the payment term, from that day to pay interest at the statutory rate applicable at that time in The Netherlands. Whenever a further month over which the interest rate is calculated elapses without payment, then the debt is recalculated to include the interest which has not been paid.
- 5.7 If the Client, even after the expiration of a registered letter asking for further payment of the amount plus interest due has not been paid, then the Client is obliged to compensate *Rainbow Collection* for all extra-judicial and judicial costs, including reasonable legal fees or out of court costs.
- 5.8 If, by *Rainbow Collection*, for courtesy or other reasons, the Client is permitted to delay the completion of any obligation, then the new term is always the final one.

6. Services

- 6.1 Offers with a description of the services are based on information provided by the Client to *Rainbow Collection* up to the date when the offer is made. *Rainbow Collection* is not responsible or liable for the accuracy and completeness of the information provided by the Client, and the use thereof in the implementation of the agreement.
- 6.2 *Rainbow Collection* guarantees that:
- the services carried out by /on behalf of them will be carried out in a skilled way. *Rainbow Collection* has the right to replace any of their personnel working on a project, and will do their best to ensure that the replacement person is of the correct level to guarantee, as far as possible, that the quality of the work is carried out at the same level.
- Rainbow Collection* cannot guarantee that it will achieve the result or objective sought by the Client with the Agreement. Services have the character to perform an 'obligation', and not a guarantee.
- 6.3 The use by *Rainbow Collection* or the Client of 3rd parties to carry out the agreed work can only take place by mutual consent.

- 6.4 Client will give *Rainbow Collection* full and free access to the necessary information and facilities that are necessary for *Rainbow Collection* to complete its work.
- 6.5 If it appears that the provision of part or all the Services cannot be made because of failure by the Client in its responsibility to *Rainbow Collection*, or to other Client attributable conditions, it will reimburse *Rainbow Collection* for any costs it has made on the matter, calculated on the general prevailing consultancy rates of *Rainbow Collection*.
- 6.6 If it is agreed that the project will be executed in phases, *Rainbow Collection* can postpone those parts that belong to a next phase until the Client has given written approval the results of the previous stage. In the case that delay in completing the next stage is caused by delayed approval by the Client, or other reasons for which Client is responsible, then any resulting additional costs will be borne by the Client.
- 6.7 Client recognises that completion of the Agreement can be influenced by several unforeseen factors, including, but not, limited only to, the quality of the information given by the Client, or limited availability or commitment of Client's personnel working on the project.
Rainbow Collection will endeavor to complete its obligations under this Agreement within the agreed schedule. The planning and the accompanying timings cannot be seen as absolute commitments.
Except in cases of willful misconduct or gross negligence by *Rainbow Collection*, exceeding the planning and given timings does not give the Client right to proceed to full or partial dissolution or termination of the Agreement, nor the right to compensation as a result of damage caused by the Client.

7. Modifications to Agreement c.q. extra work

- 7.1 In the case that Client wishes to make modifications or changes to the agreed programme, and *Rainbow Collection* is of the opinion that its work programme is thereby greater, then this implies "extra work", which – subject to paragraph 7.2 – can be billed to the Client, even if a fixed price has previously been agreed between both parties.
- 7.2 In the case that *Rainbow Collection* deems that "extra work" is necessary, then it will immediately inform the Client and the consequences thereof, in terms of costs or timeframes in which the project can be delivered. Client is obliged to accept these consequences, unless they give written notice within 8 days to *Rainbow Collection*. *Rainbow Collection* may wait until Client has given written approval with the implementation of the extra work involved.

8. Liability and Indemnity

- 8.1 *Rainbow Collection* is not liable for any indirect damage to the Client or third parties, including consequential damage, loss of goodwill, whether future sales or earnings, or claims by third parties due to other than direct damages.
- 8.2 The liability of *Rainbow Collection* to the Client for any reason per event (a sequence of events counts as one event) is limited to the value of the amount *Rainbow Collection* has received for its work under the Client Agreement (excluding VAT). If the agreement runs for more than six months, all liability shall be limited to an amount

equal to the amount *Rainbow Collection* has received from the Client under the Agreement in the six months prior to the occurrence of the damage. If no contract value can be identified, *Rainbow Collection*'s liability is limited to the amount it will receive from its liability insurance.

- 8.3 The liability limitations in paragraphs 8.1 and 8.2 shall not apply insofar as the damage was caused by intent or gross negligence of *Rainbow Collection* or its executive staff.
- 8.4 Except in cases of gross negligence or intent of *Rainbow Collection* or its executive staff, the Client will indemnify *Rainbow Collection* against all third party claims, for whatever reason, in respect of compensation for damages, costs or interests in connection with the Products and Services, or where Client cannot provide clear evidence that blame can clearly be attributed.

9. Force Majeure

- 9.1 If *Rainbow Collection*, as a result of a non-attributable shortcoming ("force majeure") cannot meet its obligations to Client, these obligations will be suspended for the duration of the force majeure period.
- 9.2 In the case that a force majeure situation has lasted for 3 months, both parties have the right to partly or wholly dissolve the contract. This must be done in writing.
- 9.3 Force majeure means any occurrence outside the control of *Rainbow Collection* which results in *Rainbow Collection* being unable to fulfill part or all of its obligations to Client because they are prevented, delayed or made uneconomical, and whereby *Rainbow Collection* cannot reasonably be expected to fulfill its obligations.
- 9.4 Both parties will notify each other, as soon as possible, of any situations where (possible) force majeure can take place.

10. Intellectual Property Rights

- 10.1 Unless *Rainbow Collection* and Client have otherwise specifically agreed in writing, *Rainbow Collection* retains full and exclusive rights to all (intellectual) property, including but not limited to: author's rights, personal rights and databank rights), on which its services are based.
- 10.2 *Rainbow Collection* grants the Client the right to use the results of its services exclusively within and for the benefit of its own organisation. but only after the Client has fulfilled its (payment) obligations under the Agreement.
- 10.3 Without prior written permission from *Rainbow Collection*, Client is not permitted to use the results of its services, or to reproduce them in any form, outside its own organisation.

11. Contract Dissolution

- 11.1 In the case of (temporary) suspension of payments, bankruptcy , or liquidation of the Client's business , or- if Client is a private person - dies or is placed under guardianship, all Agreements with the Client will be dissolved by law, unless *Rainbow Collection* informs Client within a reasonable time (most commonly at the request of the administrator or trustee), that it requires compliance to (part of) the relevant Agreement (s) request, in which case *Rainbow Collection* without notice is entitled to:
- a) suspend further work on the Agreement until payment has been sufficiently secured; and/or
 - b) to suspend all its obligations towards the Client; without prejudicing *Rainbow Collection* 's other rights under any Agreement with the Client whatsoever, and without *Rainbow Collection* being obliged to pay any compensation.
- 11.2 If Client does not properly, or within a set period or otherwise timely, fulfill any obligation arising from any of his Agreements, then Client is in default and *Rainbow Collection* is entitled, without notice or judicial intervention:
- a) to suspend the implementation of that Agreement and related agreements until payment has been sufficiently secured ; and/or
 - b) to fully or partially dissolve that, and related Agreement(s), without prejudicing *Rainbow Collection*'s other rights whatsoever under any Agreement with the Client and without *Rainbow Collection* being obliged to pay any compensation.
- 11.3 If an event occurs as referred to in paragraphs 11.1 or 11.2, then all claims of *Rainbow Collection* in respect of the Client and the claims under the Agreement (s) are payable immediately and in full and *Rainbow Collection* entitled to all results/reports of it's work.

12. Transfer of Rights and Obligations

- 12.1 *Rainbow Collection* is not permitted to transfer defined parts of any Agreement rights and obligations to third parties. If *Rainbow Collection* wants to transfer such rights, it must inform the Client in advance, and Client is entitled to terminate the Agreement. *Rainbow Collection* does not need to pay damages in this case.
- 12.2 Client is not entitled to transfer the rights and / or obligations under an agreement to any third party without the prior written consent of *Rainbow Collection* .

13. Exercise of suspension, dissolution and nullification rights by Rainbow Collection

- 13.1 In case *Rainbow Collection* , based on the circumstances which at that time are known and should have been known, reasonably believes it has a right to suspension , dissolution, and / or access to nullification of contract, then *Rainbow Collection* is not obliged to pay the legally required interest , incase it is later established that they had not validly exercised their legal rights.

14. Governing Law and Jurisdiction

- 14.1 These Conditions and all Agreements are governed by Dutch law .
- 14.2 All disputes between the parties shall be submitted to the competent court in Amsterdam.
- 14.3 The applicability of the Vienna Convention 1980 (CISG) is explicitly excluded.

These Terms and Conditions are on _____ filed with the Chamber of Commerce in _____ under number _____ and will be sent on request free of charge to Clients.

They can also be read and downloaded from our website www.rainbowcollection.nl

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