



## **Coöperatief Advanced Extracorporeal Therapies U.A.**

General Terms and Conditions

August 11<sup>th</sup> 2018

## **Article 1: Definitions**

**AET:** Co-operative Advanced Extracorporeal Therapies U.A., Kochsloan 13, 6373 GW Landgraaf, the Netherlands, Chamber of Commerce number 69048649, branch office number 000037436023.

**Fee:** The fee agreed between AET and the other party for the Work delivered.

**Tender:** The activities (more or less) specified that AET intends to provide for the Client, as well as the budget of the related costs.

**Client:** The person/entity who gives an assignment to AET.

**Agreement:** The agreement between AET and the Client.

**Activities:** All services provided by AET for the Client and, in particular, services related to the delivery of care (extracorporeal circulation) during day, evening, night and weekend shifts in i.a. operating theatres and intensive care units at specified healthcare institutions.

## **Article 2: General**

2.1. These general terms apply to all legal relationships between AET and the Client, including all Activities that AET offers and, in particular, the services as agreed upon in the Tender.

2.2. All terms in these general terms have been compiled for the benefit of all persons working for or being employed by AET and/or have been contracted by AET.

2.3. Deviations from these general terms are valid only if they have been expressly agreed upon in writing. AET expressly rejects the applicability of general terms used by the Client.

## **Article 3: Commencement of the Agreement**

3.1. The Agreement is established by a written confirmation of the Client that he or she accepts the Tender. The Tender agreed upon, these general terms and any additional written agreements together form the full representation of the parties' rights and obligations, and replace all previous written and oral budgets, announcements and other correspondence.

3.2. The Tender will i.a. mention the nature of the Activities, the Fee, the name of the Client and its contacts and any specific payment obligations.

3.3. The prices mentioned in the Tender and/or in the Agreement are excluding VAT and other charges charged by the government, as well as any costs incurred under the Agreement, including shipping and handling costs, unless stated otherwise in the Tender.

3.4. Acceptance occurs after approval of the Agreement or Tender. Whenever Activities start without written Agreement after consultation or without written confirmation of the Tender, then the Tender and the General Terms together form the Agreement.

3.5. With respect to any work performed or to be performed in the short term, for which no quote is sent, and/or for which the Client has failed to sign the quote before commencing work, the invoice will be valid as a confirmation of the contract, which is deemed to be accurate and complete.

## **Article 4: Quality of Work**

4.1. AET will take the utmost care in the performance of the Work, which is in accordance with professional standards. This obligation concerns a commitment obligation.

4.2. If, and to the extent that a proper implementation of the Agreement requires this, AET shall have the right to have Activities performed by a third party. These parties can arrange for a corresponding fee. If, at the request of the Client, AET compiles a budget for the costs of third parties, then this budget is only indicative.

4.3. To ensure that AET will perform the Operations in accordance with the Tender, the Client will provide all information and documentation deemed necessary by AET within the requested deadline.

4.4. AET is not liable for any damage whatsoever arising from facts that AET based on incorrect and/or incomplete information or documentation provided by the Client, or by personnel employed by the Client.

#### **Article 5: Fee**

5.1. The Fee as shown in the Tender and/or the Agreement does not include VAT (if applicable) and other taxes.

5.2. AET reserves the right to charge additional costs made and/or hotel and accommodation costs if AET - at the request of the Client - delivers her activities or part of them in the evening, during the night or during weekends.

5.3. AET reserves the right to charge a fee for travel time.

5.4. AET is entitled to charge any price changes that have occurred after the Agreement has been concluded with the Client.

5.5. AET is responsible for the payment of due taxes and premiums, as applicable.

#### **Article 6: Payment**

6.1. Client is obliged to pay AET's invoices within thirty (30) days after the date of signature. Complaints against the amounts on invoices do not postpone the Client's payment obligation.

6.2. If the Client fails to pay within thirty (30) days, then the Client will be in default. The client is then liable for an interest of 10% per month, unless the legal interest rate is higher in which case the legal interest rate applies. The interest on the claimable amount will be calculated from the moment that the Client is in default until the full amount of payment is met.

6.3. The Client is not entitled to settle outstanding invoices to AET in any other way.

#### **Article 7: Indemnities**

7.1. Client indemnifies AET in respect of all third party claims for damages arising out of or being connected to the Agreement. This does not affect AET's obligations as referred to in Article 4.

7.2. The Client has a professional indemnity insurance, which also covers the activities performed by AET for the benefit of the Client in line with the Agreement.

#### **Article 8: Liability**

8.1. In view of the nature of the Activities and the subjective assessment aspects that play a role in the Activities, AET is not liable for any damage suffered by the Client as a result of AET's conduct in compliance with the Agreement and with respect to the Activities, unless there is intent or gross negligence. Consequential loss, including loss of profits or losses, will never be eligible for compensation.

8.2. In the event that AET is unhoped-for liable for damage suffered by the Client, then the damage that AET is obliged to pay will never exceed the amount due by (in addition

to the Client's professional indemnity insurance) her supplementary professional indemnity insurance.

8.3. The exclusions and limitations of liability as mentioned in this article, as well as the indemnity referred to in Article 7, are equally intended for and for the benefit of subordinates of AET, and any other whose assistance AET uses to perform Activities.

8.4. The liability for Activities assigned by AET to a third party is limited to the extent that the third party effectively releases AET.

### **Article 9: Force majeure**

9.1. Force majeure means any circumstance under which (further) compliance by AET to carry out the Agreement cannot reasonably be demanded.

9.2. In the event that AET is prevented by force majeure from carrying out the Activities in whole or in part, she has the right to suspend the execution of the Activities without judicial intervention or to consider the Agreement to be resolved in whole or in part, to an extent AET deems applicable, without AET having to compensate for any damage suffered by the Client.

9.3. In the event that, at the time of the commencement of force majeure, AET has partially fulfilled her obligations to the Client arising out of the Agreement, and has in part performed Activities for the Client - and those Activities performed in part are worth some Fee themselves - AET is entitled to invoice the relevant activities separately. The Client is then held to meet the relevant invoice.

### **Article 10: Confidentiality**

10.1. Both parties are required to maintain confidentiality of any information deemed confidential they have obtained under the Agreement from one another or from another source. Information is confidential if notified by the other party or if it is due to the nature of the information.

10.2. If AET - by virtue of a legal or judicial decision - is held to provide confidential information to third parties designated by law or the competent court, and AET can not invoke a legal excuse or an excuse given by a competent court, AET is not liable for damages or indemnification and the Client is not entitled to terminate the Agreement.

### **Article 11: Termination**

11.1. AET is entitled to terminate, in whole or in part, the Agreement without notice and without liability for damages or, at her discretion, to suspend the further performance of the Agreement if:

1. The Client declares bankruptcy
2. The Client applies for an official moratorium;
3. The Client liquidates its enterprise;
4. The Client is put in ward or dies;
5. The Client against AET does not comply with any legal obligation or any obligation arising from the Agreement, including, but not limited to, the take-out of a professional indemnity insurance for AET.

11.2. In the cases mentioned in Article 11.1 AET is entitled to immediately claim as a whole the Fee the Client owes to AET.

11.3. The Client is obliged to inform AET immediately if a circumstance occurs within the meaning of Article 11.1. In the event of a circumstance within the meaning of Article 11.1, subsection 5, the Client is in default and any liability to AET is immediately claimable.

## **Article 12: Applicable law and competent court**

12.1. These general terms are effective from August 11<sup>th</sup> 2018.

12.2. In the event that any provision contained in these general term should be null and void or legally destroyed, this does not affect the validity of the remaining provisions. AET and the Client will then consult in view of agreeing new provisions replacing the null or void provisions, with as much as possible observing the scope and purpose of the original provision.

12.3. The legal relationship between the Client and AET is governed by Dutch law. All disputes between the Client and AET that may arise as a result of or in relation with the Agreement will, with the exception of any other, be resolved by the competent court in Amsterdam only.