

RaQTweak B.V.
Terms of Service

Legal Documentation



www.raqtweak.com

GENERAL TERMS AND CONDITIONS

of the private company with limited liability

RAQTWEAK B.V.

established at March 5th 2004, Maastricht, the Netherlands

1. GENERAL

- 1.1. These general terms and conditions are applicable to all Raqtweak's B.V. offers, commissions, agreements and obligations of any form whatsoever towards third parties, hereinafter referred to as "the client", and to their performance.
- 1.2. Deviations from these terms and conditions are possible solely by means of a document signed by Raqtweak B.V.'s Board of Management, in which instance the deviation is applicable solely to the commission for which the deviation was agreed.

2. OFFERS

- 2.1. All offers issued by or on behalf of Raqtweak B.V. on Raqtweak's B.V. webpage, or otherwise, are without obligation.
- 2.2. Services and prices are subject to change, and consequently are not binding on Raqtweak B.V. No rights toward Raqtweak B.V. can be derived from any statements about the software programs or the services in advertising material, on Raqtweak's webpage or otherwise.

3. SERVICES

- 3.1. Raqtweak will provide the client with the services and/or the software programs ordered by the client through selection of the services and/or the software programs from Raqtweak's webpage or at the request of the client made by e-mail, only after payment had been received in advance and in full, unless otherwise has been agreed with the client.
- 3.2. Performance times, within the services and/or the software programs are to be provided, are specified by Raqtweak B.V. and are applicable from the date of acceptance of the client's order. These performance times are approximations only, and can never be regarded as latest performance times.
- 3.3. Exceeding the performance time, irrespective of the reason, shall never result in Raqtweak B.V.'s obligation to compensate the client for the loss incurred by the client or a third party unless the performance time is exceeded as a result of gross negligence or wrongful conduct on the part of the management staff of Raqtweak B.V. Nor does exceeding the delivery time result in the client acquiring any rights to claim for the dissolution of the agreement, nor entitle the client to either suspend or fail to observe any obligation arising from the agreement or any other transaction between the client and Raqtweak B.V.
- 3.4. However in the event that the performance time is exceeded by a very considerable period, then the client shall be entitled to dissolve the agreement after first having issued Raqtweak notice of default and having granted a reasonable additional period of time for the fulfilment of the agreement.
However the dissolution of the agreement does not entitle the client to any compensation for loss from Raqtweak B.V., nor to fail to observe any other obligations towards Raqtweak B.V.

4. ACCEPTANCE AND CLAIMS

- 4.1. The client is responsible for the inspection of the provided services and/or the software program(s) and under the obligation to test the result of the services and/or the software

program(s) with respect to an adequate performance of the services and/or the software program(s).

- 4.2 Complaints pertaining to the quality of the services and/or the software program(s) shall be submitted in writing to Raqtweak B.V. stating the nature of the complaint, within 72 hours after the client has received a written statement per e-mail or fax from Raqtweak B.V. that the services and/or the software program(s) are provided.
- 4.3 The client shall provide Raqtweak B.V. with the opportunity to inspect the provided services and/or the software program(s) so as to determine whether the complaint is justified. The right to complain lapses in the event that Raqtweak B.V. is not provided with the opportunity to carry out this inspection.
- 4.4 Complaints that Raqtweak B.V. finds justifiable will be compensated at Raqtweak B.V.'s discretion by means of either:
 - a. making the replacement of the software program(s) available free of charge or repairing and restoring the software program(s) free of charge;
 - b. improving or restoring the services without charge;
 - c. or partially or fully refunding the payment made by the client for the services and/or software program(s).

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 Raqtweak owns the intellectual property rights of its software programs, including but not limited to copyright.
- 5.2 With respect to the software program(s) provided to the client by Raqtweak, Raqtweak grants the client a personal, non-exclusive and non-transferable licence to use the software program(s). No title to the software program(s) is transferred to the client and the client agrees not to copy the software program(s) or transfer the software program(s) to any other party or export the software program(s) from the country, without the prior written consent of Raqtweak.

6. PRICES

- 6.1. All prices cited by Raqtweak B.V. are net. prices, ex. the Dutch VAT (value added tax).
- 6.2. In the event of a substantial change in the prices of electricity and fuels, or the prices of components that are obtained by Raqtweak B.V. from third parties, or in wages, salaries, national insurance contributions, government charges,- or in the event of changes in any other circumstance that served as the foundations for the calculation of the price during the period between the date of the offer and the date of performance - then Raqtweak B.V. is entitled to increase the price agreed on the acceptance of the order by a commensurate amount, and with due regard for any statutory regulations that may be applicable.

7. Payment

- 7.1. All costs incurred in effecting the payment, inclusive of the costs of the bill of exchange and the bank charges, shall be borne by the client.
- 7.2. Payment shall be effected in advance and in full, or when Raqtweak B.V. specifically agrees otherwise with the client, within 14 days of the invoice date. In the event that payment has not been effected within the specified period, then the client shall be in default and shall owe either an interest charge for late payment of 1% per month or the statutory interest rate, whichever is the greater, on the invoice amount or the part of the invoice amount that has not yet been paid.
- 7.3. All obligations in whichever name and of whatever nature, which are entered into by Raqtweak B.V. towards the client will be suspended in the event of the failure of the client to fulfil one or more of the client's obligations, of whatever nature, in an adequate manner or in time. The suspension will remain in effect until such time as the client finally fulfils those obligations.
- 7.4. All payments shall be effected without any discounts. The client is not permitted to invoke the right to set off debts. Complaints do not give the client any right to refuse or postpone any payment unless Raqtweak B.V.'s performance of the agreement is totally inadequate.

- 7.5 Payments effected by the client serve first to pay the costs, then interest, and subsequently the settlement of the oldest debts, even should the client have assigned a different title to the payment.
- 7.6 In situations in which Raqtweak B.V. deems the failure to pay in time as giving cause to pass on its claim for collection to a third party then the concomitant costs shall be borne by the client. Raqtweak B.V. can opt either to charge the client the actual costs charged to Raqtweak B.V., or to charge an amount equal to 15% of the principal sum owed to Raqtweak B.V., increased by the interest charge for late payment, with a minimum of € 500.
- The mere engagement of a third party by Raqtweak B.V. for the collection of the debt is sufficient to create the indebtedness for the collection charges.
- 7.7 Raqtweak B.V. reserves the right to require, at any time, security for the timely payment of both work that has been carried out and work that is yet to be carried out.

8. FORCE MAJEURE

- 8.1. Circumstances of a nature such that the fulfilment or further fulfilment of the agreement cannot reasonably be expected from Raqtweak B.V. are deemed to constitute force majeure.
- 8.2. In the event that Raqtweak B.V. anticipates that as a result of force majeure the agreement concluded with the client cannot be fulfilled at all, cannot be fulfilled to a great extent, or cannot be fulfilled with respect to the part that has not yet been provided, or that as a result of the circumstances the performance time would be exceeded by more than two months, then Raqtweak B.V. can obtain either to declare the agreement to have been dissolved, or to suspend the fulfilment of its obligations, whereby the parties cannot assert their rights to compensation on the selection of one of these two options. In the event that Raqtweak B.V. had already fulfilled part of the agreement then the dissolution can pertain only to the future, and the client is liable to pay an amount commensurate with that part of the agreement that has been fulfilled.

9. Liability

- 9.1. The fulfilment of the compensation as stated in section 4.4. of this General Terms and Conditions constitutes the sole and entire form of compensation. Consequently Raqtweak B.V. can accept no liability for any direct and/or indirect damages or loss, special or consequential damages or loss or trading loss, of any form or any nature whatsoever, unless the loss is the consequence of gross negligence or wrongful conduct on the part of the Board of Management or the management staff of Raqtweak B.V.
- 9.2. Raqtweak B.V. is neither responsible for any direct and/or indirect damages or loss as a consequence of insufficient maintenance or use of the services and/or software program(s) provided by Raqtweak B.V.

10. Disputes

- 10.1. All agreements and all disputes that may arise from the agreements are governed by Netherlands law.
- 10.2 Any disputes that may arise in connection with all agreements concluded with Raqtweak shall, in accordance with Raqtweak's choice, be submitted to either by the Court at Maastricht, Netherlands or by arbitration in accordance with the Arbitration rules of the Netherlands Arbitration Institute. In the latter case, the place of arbitration shall be Maastricht, the Netherlands. The arbitral tribunal shall be composed of one arbitrator. The arbitral procedure shall be conducted in the English language. Consolidation of the arbitral proceedings pending in the Netherlands, as provided in art. 1046 of the Netherlands Code of Civil Procedure, is excluded.