

## General Terms and Conditions of Esti developers

### Article 1 / Definitions

The following terms in these General Terms and Conditions have the meanings specified below:

“Agency”	:	Esti of Amsterdam, the Netherlands (KvK number 58955364).
“Candidate”	:	permanent applicant
“Client”	:	any individual and legal entity that uses the services of Esti.
“Assignment”	:	the agreement based on which Esti will undertake pre-defined activities for the Client.

### Article 2 / Applicability

- 2.1 These Terms and Conditions are deemed to be accepted by the Client by a request for an introduction, an interview (whether effected by the Agent or directly by the Client), whether in person or by telephone, or email, or by the signing of the Terms and Conditions, or by the engagement (which term includes employment or use, whether under a contract of service or for services, or under an agency, licensee, franchise or partnership agreement) of a Candidate introduced by the Agency. An ‘introduction’ shall mean an interview, the acceptance of a CV or Candidates’ details, via the post, e-mail, facsimile, or oral communication.
- 2.2 All Assignments and agreements between The Agency and the Client shall be subject to these General Terms and Conditions, unless there are explicit and written agreements to deviate.
- 2.3 By making an Assignment the Client shall be deemed to have agreed in full to the applicability of these General Terms and Conditions.

### Article 3 / Agency’s offers

- 3.1 All Agency’s offers shall be free of obligation, unless The Agency has expressly indicated otherwise in writing.
- 3.1 All amounts stated in offers, assignment confirmations or other documents issued by the Agency are exclusive of VAT.

#### **Article 4 / Confirmation/termination of an Assignment**

- 4.1 Based on information provided by the Client, the Agency shall state the content of the Assignment in detail in writing.
- 4.2 The Client shall return a copy of the Assignment to the Agency as soon as possible, signed to indicate agreement with its terms.
- 4.3 The agency shall be entitled to end any further performance of the Assignment if the Client wishes to modify the Assignment prematurely in such a manner that, in the opinion of the Agency, further performance is not reasonably possible.
- 4.4 The Assignment shall be dissolved with immediate effect and the Agency may demand immediate payment of its claims in the event of:
- a. the Client's bankruptcy or suspension of payments, or;
  - b. the Client's failure to furnish proper security for the performance of its obligations upon Esti's first request;
- 4.5 The Client is entitled to withdraw an Assignment. The Client must then render full payment for all expenses reasonably incurred by the Agency in relation to the Assignment and for the time devoted to the Assignment by the Agency at the applicable hourly rate, the minimum amount thereof being any advance payments charged to the Client.

#### **Article 5 / Fees**

- 5.1 The fee and the hourly rate to be charged in such cases as may arise, which the Agency charges for its services shall be set in consultation with the Client.

#### **Article 6 / Payment**

- 6.1 Payment, without withholding or set-off any amounts, must be made by the Client within 30 days after the invoice date. In the event of any late payment, the Client shall owe interest at the rate of 1% per calendar month on the outstanding amount without any notice of default being required.
- 6.2 Upon any failure, attributable to the Client, all costs incurred by the Agency in the matter shall be charged to the Client.
- 6.3 If the Client remains in default of payment, the Agency shall be entitled to cancel the Assignment and demand full payment of the agreed fee for the entire Assignment. The above is without prejudice to the Agency's right to demand full damages.

## **Article 7 / Complaints**

- 7.1 Complaints in relation to the services performed in the context of the Assignment or to the invoice amount must be reported to the Agency in writing within twenty working days after the cessation of services or no later than twenty working days after the invoice date.
- 7.2 A complaint within the meaning of paragraph 7.1 does not suspend the Client's payment obligation.
- 7.3 If the Agency finds that there is a basis for the complaint, the Agency shall be free to choose either to proceed to perform the services once more (in part), or to refund a reasonable portion of the invoice amount charged, such to the extent that it pertains to the complaint.

## **Article 8 / Candidate**

- 8.1 If a Candidate introduced by the Agency becomes employed by the Client or any company affiliated with the Client within one year after the introduction, this agreement shall be deemed to have come into being through the mediation of the Agency and the full fee shall, yet, be due to the Agency from the Client.
- 8.2 If the agreement between the Client and the Candidate is terminated within three months after its commencement, the Agency shall, at no charge to the Client, recommend one or more candidates for the opening that has, once again, become available. This shall be the case if the situation that has arisen has been caused by the Candidate placed. The above shall take place subject to the condition that the reasons for the discharge situation in question are fully stated in writing by both the Candidate and the Client in order that an assessment may be made as to whether the situation that arose was, in fact, attributable to the Candidate placed. At the same time the statements of expenses already submitted by the Agency must have been paid in full by the Client.
- 8.3 References regarding candidates may only be verified after consultation with the Agency and upon the explicit permission of the Candidate.

## **Article 9 / Limitation of liability**

- 9.1 Any liability for any failure attributable to the Agency to comply with its obligations towards the Client shall be limited to the invoice amount owed to the Agency by the Client. The liability of the Agency shall never exceed a payment of Euro 50.000, -
- 9.2 The Agency shall be liable for losses caused by the intentional or negligence conduct of its non-management staff.



- 9.3 Notice of any claims of the Client must be communicated to the Agency by registered mail within one year after the loss has been discovered, failing which, the Client will have relinquished its rights.
- 9.4 The Agency excludes all liability for the performance of candidates introduced (by the Agency) or for losses resulting from the acts (or omissions) of same.

#### **Article 10 / Confidentiality**

- 10.1 All confidential information the Agency obtains from the Client to carry out the Assignment the Agency shall handle with care and shall not communicate the content thereof to any third parties except in relation to relevant statutory obligations.

#### **Article 11 / Disputes and governing law**

- 11.1 These General Terms and Conditions and any agreement ensuing from same shall be subject exclusively to Dutch law.
- 11.2 All disputes which the parties are unable to resolve among themselves (except those which fall within the jurisdiction of the sub-district court) shall be brought in the first instance before the Amsterdam District Court.
- 11.3 No variation of these Terms and Conditions is valid or binding unless approved in writing by a director of the Agency.

These Terms and conditions are valid from February 2016 and supersede and replace all previous Terms and Conditions of the Agency.

We hereby accept the Agency's Terms and Conditions of business as detailed above.