



## **General terms and conditions Fresh Insight**

### **Article 1. Applicability**

1. These Fresh Insight conditions form part of each agreement between the client and Fresh Insight, registered with the Chamber of Commerce in Rotterdam under number 55.417.566.
2. Any divergent conditions and/or alterations to the agreement shall apply only in so far as they have been expressly agreed in writing for a given order.
3. If and in so far as any provision of these conditions cannot be invoked because this would not be reasonable or fair or because of the unreasonably onerous nature of such provision, the provision shall be interpreted in such a way that its content and tenor are as far as possible in accordance with the original and thus can be invoked.
4. The agreement shall replace and prevail over all previous correspondence and arrangements between parties.
5. If any provision of these conditions should prove not to be valid or applicable for any reason whatsoever, the remainder of these conditions shall remain in full force.

### **Article 2. Project proposal**

1. Offers shall be made in the form of a project proposal for design, digital, consumer research, consultancy, workshops, lectures and coaching. A project proposal shall be made in writing and shall in any event contain a description of the work, method, planning and financials.
2. On the basis of the data/briefing supplied by the client, Fresh Insight shall determine the price, excluding Dutch value-added tax and other levies imposed by government authorities.
3. Unless otherwise specified in the project proposal, the price quoted does not include additional costs such as (extra) travelling and accommodation expenses, the costs of (additional) meetings, rental of location and equipment, expenses for preparing presentations and any possible unforeseen costs which may be incurred by Fresh Insight.
4. A project proposal shall be valid up to one month from the date of such proposal, on condition that the order can be executed within the period referred to in the proposal, calculated as from the starting date referred to in the proposal.
5. Meetings shall be held in The Netherlands, unless expressly stated otherwise in the proposal.
6. The costs connected with drawing up project proposals and all meetings related thereto may be charged to the applicant who requested the proposal if no order follows and it has been agreed with the applicant in writing beforehand that the applicant agrees to payment of such work.
7. If the client submits the same project proposal to Fresh Insight and other (potential) contractors, the client is always obliged to inform Fresh Insight of this fact.

### **Article 3. Project agreement**

1. An order shall be processed by Fresh Insight if and as soon as the project agreement signed by the client and the accompanying documents have been received.
2. If an agreement refers to a project, the relevant specifications and statements shall form part of the agreement.

#### **Article 4. Payment**

1. The client will be obliged to pay the total amount after invoicing, without reservation or deduction and irrespective of the results of the project.
2. Payment shall be effected within 14 days of the date of invoice, effectively in the agreed currency, for which purpose the date on which the amount due is credited to the account of Fresh Insight is taken as the date of payment. If not agreed otherwise, on acquiring the project order 50% of the total amount is invoiced and 50% on delivery of the results.
3. If the term of payment is exceeded, the client shall owe interest on the outstanding amount which is equal to the statutory interest applicable at that time, without any prior notification or reminder.
4. The client shall also bear all judicial and extrajudicial costs which Fresh Insight incurs in order to collect its claim and interest if the term of payment is exceeded. These costs shall be at least 5% of the outstanding amount, with a minimum of € 250.-- (two hundred and fifty euros).
5. If any invoice is not paid in time, the client shall be in default by operation of law and the total research amount shall become forthwith due and payable.
6. After an order has been placed, intermediaries may not claim a fee from Fresh Insight in respect of any intermediary services provided, unless this has been agreed in writing with the approval of the client before placing the order.

#### **Article 5. Price**

1. The project shall exclusively consist of that which has been agreed in the project agreement. Fresh Insight reserves the right to charge for additional work not envisaged at the time of conclusion of the project agreement.
2. If it appears during the execution that the specifications and assumptions supplied by the client, such as for example penetration figures, questionnaire length and contact period, do not tally with the real situation found in the project or if there are other foreseen or unforeseen external circumstances such as an increase in taxes, wages and/or social security charges, energy prices and other tariffs and/or expenses charged to Fresh Insight by third parties, these shall be charged to the client. The client shall be informed thereof as quickly as possible. If the differences result in costs which are lower than those estimated, the invoices may be adjusted.
3. The costs price includes in many cases a delivery of a report in accordance with the specifications in the project agreement. If another type of report is desired, they shall be supplied at cost price plus a surcharge.
4. All additional costs as referred to in article 2, paragraph 3, which Fresh Insight must incur, shall be invoiced separately. The additional costs with a surcharge shall be itemised for the client in the last invoice.

#### **Article 6. Delivery**

1. Fresh Insight reserves the right to make delivery in consignments and to invoice them separately.
2. Quoted delivery dates are indicative and are not to be treated as deadlines.
3. If delivery does not take place in time, Fresh Insight shall be given written notice of default and granted a reasonable period within which to make delivery after all. If the delivery period is exceeded, there is no right to compensation, dissolution or termination of the agreement.

**Article 7. Force Majeure**

1. If Fresh Insight is prevented from further performing the agreement as a result of force majeure of a permanent or temporary nature, Fresh Insight shall be entitled, without being liable to pay any compensation and without obtaining a court order, to dissolve all or part of the agreement or to suspend its obligations under the agreement for a period of six months, after which both parties may dissolve the agreement without any right to compensation.
2. Cases of force majeure include all unforeseen circumstances as a result of which Fresh Insight is unable, temporarily or permanently, to comply with its obligation, such as: A. acts of persons used by Fresh Insight in the performance of the agreement; B. unsuitability of things used by Fresh Insight in the performance of the agreement; C. fire, strike and/or lockout of workers, riots and/or civil disturbances, wars or threat of war, transport difficulties, natural and/or nuclear disasters, government measures, import, export or transit bans, failure in the performance by suppliers, computer and/or software faults and, furthermore, all circumstances as a result of which Fresh Insight can no longer reasonably be expected to further perform its obligations vis-à-vis the client.

**Article 8. Notice and dissolution**

1. If the client fails to fulfil any obligation to which he may be subject under the agreement or fails to do so properly or in good time, or if he is declared bankrupt, obtains a suspension of payments or is placed under tutelage, if his business is closed down or liquidated or if the client, being a company, is dissolved, the client shall be deemed to be in default by operation of law and Fresh Insight shall be entitled to dissolve all or part of the agreement at its discretion, without the client being entitled to any compensation or guarantee and without prejudice to any other rights to which Fresh Insight may be entitled and without any notice of default or court order being required.
2. In the event of a dissolution as referred to in the preceding paragraph, Fresh Insight shall be entitled to claim immediate payment of all amounts to which it is entitled.
3. If the project is postponed or cancelled after the order has been placed, the client shall owe all costs incurred up to that time. If the order is followed up at a later stage, the costs already charged shall, if the specifications remain unchanged, be set off as far as possible.

**Article 9. Reporting and filing**

1. Reporting shall be effected in the English language unless otherwise agreed and specified in the research proposal.
2. Fresh Insight undertakes to keep the originals of the reports and questionnaires, as well as the databases and audio or video tapes from qualitative research, whether or not computerised, for two years after completion of the final report.

## **Article 10. Copyright**

1. All copyrights relating to project designs, concepts, products, methods and models developed and produced by or on behalf of Fresh Insight shall be vested in Fresh Insight unless otherwise noted in the project agreement.
2. All copyrights relating to proposals for designs, projects, methods, workshops, lectures, research and questionnaires produced by or on behalf of Fresh Insight shall be vested in Fresh Insight, unless a reasonable case can be made that the direct contribution of the client was of vital importance to the development thereof.
3. All copyrights relating to designs and analyses of results developed by or on behalf of and reports and related documents drawn up by or on behalf of Fresh Insight shall be vested in Fresh Insight, whereby Fresh Insights agrees to transfer to the client the rights of usage, reproduction and storage in any (computerised) data base within the organisation of the client.
4. Reports and related documents produced in the course of the design or research are deemed to mean all documentation in the form of text, tables and/or graphs, whether presented in printed form or on slide or overhead sheets or in electronic or in any other form.
5. To prevent misuse of information, no part of any document intended in article 10.4 may be made public in any way or in any form without the prior written consent of Fresh Insight. Distribution within companies and/or institutions affiliated to or associated with the client is deemed to be included in this publication restriction.
6. If the client infringes the copyright of Fresh Insight, the client shall owe Fresh Insight a penalty equal to the amount of the sum invoiced to the client by Fresh Insight in respect of the project, with a minimum of € 25,000.-- (twenty-five thousand euros). In addition, the client shall pay compensation for the damage actually suffered by Fresh Insight.
7. All use of data of Fresh Insight shall be at the risk of the client Fresh Insight shall accept no liability for damage caused by the use of correct or incorrect data.

## **Article 11. Protection of personal data**

- a) Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject;
- b) Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes and according to the provisions of the General Data Protection Regulation that regulate safeguards and derogations related to archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, which shall not be considered to be incompatible with the initial purposes;
- c) Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- d) Personal data shall be accurate and every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e) Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;
- f) Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures;

**Article 12. Confidential Information**

1. Fresh Insight undertakes to refrain from disclosing to third parties any data identified by the client as confidential.
2. The client is obliged to observe strict secrecy concerning the working method and the content of all information which relates to the agreement, including the documents made and/or supplied by Fresh Insight, save for those which are expressly intended for external use.
3. The client is obliged to impose the duty of secrecy on all subordinates and third parties who become aware of the information and the client guarantees that these subordinates and third parties will fulfil this obligation.
4. If the client fails to fulfil the obligation referred to in paragraph 2 and paragraph 3 of this article, he shall owe Fresh Insight a penalty as referred to in article 10, paragraph 6.

**Article 13. Complaints**

1. If the work performed by Fresh Insight does not, according to the client, fulfil the terms of the agreement, the client shall inform Fresh Insight thereof in writing within one month of discovering the alleged defect, but no later than one month after receipt of the final reports or consult. In doing so, the client shall indicate accurately in what way the work performed by Fresh Insight is inadequate. After the expiry of this period, the client shall be deemed to have approved the performance provided by Fresh Insight.
2. If it appears that a complaint is well-founded, the defect shall - if possible - be rectified Fresh Insight without any further costs being charged to the client in this respect. Only if rectification is not possible shall Fresh Insight reimburse a proportionate part of the price paid or yet to be paid by the client.
3. A complaint does not affect the obligations of the client under the agreement concluded with Fresh Insight.
4. If the complaint proves to be unfounded, Fresh Insight may - if there are reasons for doing so - charge the client for the costs incurred in connection with the unwarranted complaint.

**Article 14. Liability**

1. Fresh Insight excludes liability for any damage (or form of damage) which may arise in connection with the performance of the agreement (or the impossibility of performance), save where there is question of intent or gross negligence.
2. In so far as Fresh Insight can be held liable pursuant to the provisions of paragraph 1, such liability shall be expressly limited to that provided for in article 13 and the maximum amount for which Fresh Insight may be held liable vis-à-vis the client can never exceed the amount of the invoice to be paid by the client to Fresh Insight. In addition, the following provisions apply.
3. Fresh Insight accepts no liability for a sample not selected by it.
4. All damage occasioned to test and/or research material provided to Fresh Insight by the client shall be for the account of Fresh Insight, unless such damage occurs while the research is being carried out according to standard practice.
5. All damage occasioned by or in connection with test and/or research material provided to Fresh Insight by the client is for the account of the client.
6. Fresh Insight may never be held responsible for the use and the interpretations of the research results by the client or third parties.
7. The client is obliged to indemnify Fresh Insight against claims of third parties which result from or are connected with the work performed by Fresh Insight for the client, or the absence thereof.

**Article 15. Governing law and competent court**

1. The agreement concluded by the client with Fresh Insight shall be governed by Dutch law.
2. All disputes which may arise as a result of an agreement between the client and Fresh Insight or further agreements which may follow therefrom shall be settled by the competent court in Amsterdam.

**Article 16. Transfer of rights and obligations**

1. The client is not allowed to transfer to a third party any rights and obligations arising from the agreement without the prior written consent of Fresh Insight. Fresh Insight may attach conditions to such consent.
2. Fresh Insight shall be entitled to transfer its rights arising from the agreement to a third party. Fresh Insight shall inform the client of such a transfer within a reasonable period.

**Article 17. Communication**

Fresh Insight shall send all communications to the client's (email) address referred to in the agreement. The client shall send all communications to the address of Fresh Insight referred to in the agreement. The client shall immediately inform Fresh Insight of any change of address.