

General conditions

General

1. In this general conditions OCTINION means Octinion Technology Group nv and all affiliated companies as meant in article 11 of the Belgian code of companies.
2. All quoted fees and charges are valid for orders received during the quotation validity period and for which the customer requests a starting date not later than 6 (six) months after the order date.
3. Unless specified otherwise all prices are VAT (value added taxes) exclusive.
4. The services of OCTINION are invoiced at completion or, if the project takes more than a month, partially at the end of each month, unless the quotation specifies other terms of invoicing.
5. All invoices of OCTINION are payable within 30 days after date of invoice. In case of no or late payment OCTINION has the right to charge the customer without prior notice the following costs: (i) an interest of (12) twelve per year calculated pro rata temporis, (ii) a penalty of 100 (hundred) euro per payment request sent by OCTINION, (iii) reimbursement of all legal fees to collect the invoices not or not correctly protested.
6. A customer has the right to protest invoices sent by OCTINION by mail to sales@octinion.com or by registered letter sent to the company registered office.

Project execution

7. All mentioned dates are estimates. OCTINION will do all it can to deliver the services within the time delay mentioned in the quotation. OCTINION however, is not liable for late or partial delivery of services due to events not under its control, unforeseen circumstances or "force majeure".
8. If the services need to be delayed or interrupted as a result of the customer's failure to make the necessary documentation, information and or material available, OCTINION has the right to modify the planning, and charge the extra costs for this delay to the customer.
9. All services will be delivered by qualified and trained personnel selected by OCTINION.
10. Upon receipt of the order OCTINION will appoint a project manager that will manage the communication between the customer and OCTINION.
11. In case of work on time & material basis, OCTINION has the right without an additional official project order to deliver the service at a price deviation of the highest of 10 (ten) % of the original order value or 2000 (two thousand) euro.

Cancellation or discontinuation

12. In case an order is cancelled before execution started, OCTINION can charge the customer a cancellation fee of 10 (ten) % of total order value with a minimum of 500 (five hundred) euro in addition to charging all costs made by OCTINION up to the date of order cancellation.
13. In case an order is cancelled during the execution, the customer will have to compensate OCTINION for all services delivered and expenses made. In that case the customer will also buy from OCTINION all material already ordered at OCTINION suppliers, at date of cancellation. OCTINION has the right to charge in surplus a cancellation fee of 10 (ten) % of the difference between the original order value and the amount already invoiced at date of order cancellation with a minimum of 2500 (two thousand five hundred) euro.
14. OCTINION may stop the services and or deliveries at any time without a Court intervention in case that:
 - a. The customer does not pay an invoice already due or doesn't comply with any other obligation in the general conditions, and does not correct this non-compliance within 8 (eight) days after receipt of a formal warning sent by OCTINION;
 - b. The customer goes bankrupt, is liquidated or enters into a proceedings of asking court protections against creditors or any similar operation.

Confidentiality

15. All confidential information provided by the customer to OCTINION in the scope of the project, will not be disclosed or provided by OCTINION to any other person than employees or of the customer, and/or of OCTINION and/or of third parties that support OCTINION in the execution of the project. OCTINION will use this information for no other purposes than the delivery of the services, unless with the explicit written authorization of the customer.
16. Unless explicitly specified otherwise in the contract proposal or official order document, OCTINION has the right to refer to the client for marketing purposes. More in particular this means, among other similar marketing acts, that the client name and logo can be mentioned on the OCTINION website and or mentioned in public press articles or on promotional documents.

Intellectual property

17. Each party remains the exclusive owner of all intellectual property rights it possessed prior to this agreement.
18. Unless otherwise specified, the property rights of all tangible materials including data, specifications, storage media and software delivered by OCTINION, become property of the customer after full payment of the contract price. Until full payment of the total contract price all intellectual property is owned by OCTINION.
19. Intellectual property rights that arise as a result of this project and that are linked to the machine or process of the customer remain property of the customer. OCTINION will provide the customer with all information necessary to file for protection of that intellectual property right.
20. Unless otherwise specified, intellectual rights (including but not limited to know how, techniques, concepts, ideas and methodology...) developed by OCTINION during this project without any contribution of the customer remain property of OCTINION.

21. Insofar the project results developed by OCTINION are protected by copyright, OCTINION will give the customer a non-exclusive, non-revocable and non-transferable right, free of any charge, to use these project results in any way, without limitation in time or region.
22. OCTINION hereby issues a free of charge, non-exclusive license to exploit the background rights of OCTINION without any limitation in time or region to the extent that these rights are:
 - a. incorporated in the project results;
 - b. necessary to be able to use these results, including for application in mass production, and usage by third parties appointed by and working for the customer, on the condition that these third parties are bound by a confidentiality agreement concerning the background rights of OCTINION.
23. OCTINION aims to realize project results that are free of intellectual property rights of third parties. If case rights of other parties that could interfere with the delivery of the service become known to OCTINION, OCTINION will discuss with the customer how the services to the customer can be continued without infringing these rights of third parties. In any case OCTINION will have no obligation to indemnify the customer for claims of infringement of rights of third parties.

Responsibility

24. The customer is solely liable for the use of the project results and the way he commercialises these project results in the market. OCTINION shall not be liable if the project results are used for applications not known to OCTINION. More in particular OCTINION shall not be liable for any military, medical, nuclear, space application except if explicitly mentioned in the customer order. OCTINION shall not be liable for any export of the project results to any country, territory or region to which export is prohibited.
25. The duties of OCTINION in these general conditions can be executed by a third party designated by OCTINION. The customer agrees that in case of such a designation OCTINION can transfer its responsibility to the designated party.
26. OCTINION doesn't offer any warranty on project results or isn't committed to any project results for the services rendered and the products delivered. OCTINION is committed to do its best reasonable efforts to deliver the projects results to the customer.
27. The liability of OCTINION under these conditions is limited to the compensation of the direct damage caused to the customer, to the extent that the customer can provide proof of the damage and proof that the damage is caused by OCTINION and only if OCTINION acknowledges the proofed damage and its liability for it. OCTINION will not be liable for:
 - a. unforeseeable, indirect or consequential damages, including but not limited to commercial losses, increased costs, loss of customers, loss of databases or programs or actions and claims made by third parties;
 - b. any damage resulting from an act, whether or not on purpose, of the customer or his employees, or the injured person or any other person for who the customer or the injured person is responsible, including all damages that are the result of instructions, written or oral, not followed given by OCTINION;
 - c. any damage recovered by third parties from the customer;
 - d. any damage caused by hardware, software or any other products or services delivered or sold by other parties than OCTINION.
28. Each customer shall indemnify OCTINION, its directors, managers and employees against third party claims related to the delivery of services and of products of OCTINION to the customer, included but not limited to claims based on negligence.
29. Except in the case of serious professional negligence or malicious intent, OCTINION, shall not be liable, either contractually or extra-contractually, for any physical or material foreseeable damage resulting from the use of the project result.
30. In any case the contractual liability of OCTINION for a service or product ordered is limited to the amount invoiced by OCTINION and paid by the customer, related to this ordered product or service.
31. If OCTINION needs to interrupt the delivery of services by "force majeure" such as but not limited to natural disaster, terrorism, war, riot, fire, strike, mobilization, seizure, embargo, shortage of transportation, general scarcity of materials, restrictions in energy consumption, pandemic diseases,..... or any act beyond its control, OCTINION will not be liable for any default or delay in delivery of the services or products. OCTINION will however take all the necessary precautions to reduce the delay or default of delivery and will immediately continue performance delivery whenever such cause of "force majeure" is resolved.

Miscellaneous conditions

32. OCTINION is authorized to deliver similar services to other parties using know how, techniques, concepts, ideas or experience developed during rendering a service or delivering a product to a customer without mentioning the customers identity.
33. For a period that begins at the start of the project execution and for 12 (twelve) months after the end of a project, the customer will not make any job offerings to OCTINION employees working on the project. In case of any breach of this provision the customer shall be liable to pay OCTINION a compensation equal to the highest of or 30 (thirty) % of the gross salary of the employee or 20 000 (twenty thousand) euro.
34. The present agreement is governed by Belgian law. Only the courts of Leuven (Belgium) will be competent to hear and judge about any dispute arising related to any agreements, orders and deliveries governed by this general conditions.