

GENERAL TERMS AND CONDITIONS

Article 1. Applicability and definitions

1. These General Terms and Conditions apply to the entire legal relationship between Futura International BV. hereinafter referred to as “FUTURA”, and the client, in respect of all offers and correspondence of FUTURA, and all contracts entered into by FUTURA, by whatever name. In particular, these General Terms and Conditions also apply to contracts entered into by FUTURA for the deployment of crew members for the shipping industry, hereinafter referred to as “Temporary Agency Workers”, to clients in the maritime sector, hereinafter referred to as the “Client”.
2. The Client is deemed to tacitly agree with the applicability of these General Terms and Conditions at such time as the contract is entered into.
3. Where reference is made to “Client” in these General Terms and Conditions, this shall be understood to mean any natural or legal person who has entered into a contractual relationship with FUTURA by virtue of a temporary employment contract concluded with us, or who wishes to enter into or has entered into a different type of contract. In particular, “Client” shall also mean the person on whose instructions and at whose expense services or goods are provided. The term “Client” also includes all ships and companies that he or she represents.
4. The provisions of these General Terms and Conditions may only be deviated from if and insofar as this has been explicitly agreed in writing.
5. If the Client also refers to its own general terms and conditions, these terms and conditions of the Client do not apply to the contract. General terms and conditions used by the Client are only valid if they are explicitly accepted by FUTURA in writing.

Article 2. Offers

1. All our offers must be regarded as non-binding. They therefore do not bind us in any way, unless the offer itself explicitly and unambiguously (in writing) states the contrary. Orders given to us shall be deemed to be a request for an offer and shall only be considered to have been accepted by FUTURA after it has confirmed this in writing (the so-called order confirmation).

Article 3. Conclusion of the contract and termination

1. A contract is only concluded with FUTURA when we have accepted in writing an order given to us. A contract shall be deemed to have been concluded at the time FUTURA sends the order confirmation.

2. The Client is bound to its order, given to us in any form whatsoever, for a period of eight days after the date of the order or (in the case of an oral order) after the order has been given. A statement by the Client that it wishes to cancel or change its order, given during this period of eight days, cannot therefore prevent a contract from being concluded on the basis of the (original) order, if FUTURA accepts/confirms the order within this eight day period.

3. The order confirmation that FUTURA sends to the Client is deemed to fully and correctly reflect the content of the contract concluded. The Client is deemed to agree with the contents of the order confirmation of FUTURA, unless it informs FUTURA in writing within eight days of the date of our order confirmation that it does not agree with the contents. In that case, the Client is obliged to state in writing, in a specified and substantiated manner, the aspect or aspects of the content of the order confirmation that it disagrees with.

4. Any additional agreements and/or commitments made by our employees, or made on our behalf by other persons acting as representatives, only bind FUTURA if these agreements and/or commitments have been confirmed in writing by a director or directors we have authorized to represent us.

5. If the Client fails to meet its obligations under the contract for the provision of services, FUTURA has the right to terminate the contract in whole or in part, extra judicially. Insofar the Client has already received performances in implementation of the contract for the provision of services at the time of termination, the termination shall apply with regard to that part of the contract that has not yet been performed and the Client shall owe the remuneration until the date of termination in full.

Article 4. Selection of employees

1. FUTURA is free to decide on the employee it deploys on the basis of a contract.

2. FUTURA guarantees that the employee possesses the documents and qualifications indicated by the Client in accordance with the contract.

3. Requirements that are not relevant to the position cannot be imposed by the hirer. These will not be honored by FUTURA.

4. If the employee has not worked for the Client at least once before and it appears that he/she does not have the aforementioned competence and qualifications, the Client must inform FUTURA of this in writing no later than at the end of the first working day of the employee, stating the reasons. FUTURA will then endeavor to provide a replacement as soon as possible.

5. If FUTURA, for whatever reason, does not or can no longer deploy the Temporary Agency Worker, this shall never constitute an attributable shortcoming of FUTURA with regard to the Client.

Article 5. Working time and working conditions

1. The employee will be deployed for a fixed period of time or for the duration of the project.

2. The duration of the employment contract includes the journey from the residence or accommodation of the employee to the place of the start of the work and the journey back to his/her residence or accommodation from the place of the end of the work.

3. The Client shall not deviate in a negative sense, with regard to the employee, from the working hours and rest periods or safety regulations that are also applied to its own personnel.

4. If a collective scheme is applicable to the Client in question, this will be applied by FUTURA. The Client is obligated to mention the full contents of such scheme at the time of entering into the contract and to pay FUTURA any resulting rate increase.

5. If the Client provides a car or any other vehicle to the employee, the Client is obliged to inform FUTURA accordingly. If the hirer fails to do so, it is obliged to compensate FUTURA and/or the employee for any damage, costs and (fiscal) consequences resulting from this.

Article 6. Secondment and offers of direct employment

1. The Client is not free to make the employee available to a third party to work under its management and supervision.

2. The Client is not free to enter into an employment contract with the employee directly, or through a third party, during the term of the deployment and cannot do so in the first six months of the contract (180 days). If the Client wishes to proceed to directly employ the employee within the first six months of work, the Client will owe FUTURA a fee for the remaining days up to a maximum of 180 times the day rate.

3. If FUTURA only receives a contract for recruitment and selection, FUTURA will charge a fee amounting to three gross monthly salaries of the hired employee or 25% of the total annual salary including emoluments. This fee must be paid as soon as the employee signs the contract.

Article 7. Rates

1. The rates of FUTURA are exclusive of turnover tax unless explicitly agreed otherwise in writing.

2. Our prices do not include costs for travel, residence, accommodation, food, vaccination, visa, COC specific flag, clothing (PPE) and a work permit for the Seafarers.

3. The agreed daily rate for the employee will start upon the departure from home of the employee and end at the time the employee returns home, unless otherwise agreed in writing.

4. The working time, rest periods and working hours of the Temporary Agency Worker shall correspond to the times applied by the Client. If the agreed working hours are exceeded (these are 14 hours per working day as standard practice), we will charge 10% of the daily rate or 125% of the hourly rate for every hour of overtime.

5. The Client is prohibited from deploying the employee in a different position or rank than agreed upon, unless FUTURA has given its written consent therefor.

6. If the Temporary Agency Worker is deployed in a lower position onboard during the contract period, the current rate will be maintained.

7. If the Temporary Agency Worker is deployed in a higher position onboard during the contract period, the Client shall automatically owe FUTURA the rate corresponding to that higher position. The opposite does not apply in the case of a demotion.

8. FUTURA has the right to charge the Client for any increase in one or more of the cost factors occurring after the date on which the contract was concluded, but before the date the contract is executed. In such case, FUTURA also has the right to declare the contract completely or partially terminated without legal intervention being required. The latter right shall also be vested in the Client, but only if, within three months of the conclusion of the contract, FUTURA takes the viewpoint that changes in costs should result in an increase in the price stated in the order confirmation. If the Client makes use of this right, it must request termination of the contract by registered letter within five days of receipt of the relevant notification from FUTURA.

9. If rate changes occur by virtue of legislation, Collective Labor Agreement (CAO) obligations or any other regulations, FUTURA will give notice to the Client and charge these on to the Client with effect from the point in time they take effect.

10. The Client agrees to invoicing in PDF format via e-mail.

11. The parent company of the Client guarantees that all payment obligations towards FUTURA will be honored and that it is financially liable as the parent company.

Article 8. Liability

1. FUTURA is never liable for consequential or business damage, direct or indirect damage or any other form of damage, howsoever named, including loss of profit and stagnation damage that is suffered by the Client and its subordinates, which is caused by employees deployed at or by it or by third parties.

2. An exception to the full exclusion, as referred to in paragraph 1, shall apply if the Client provides evidence that the damage was caused by willful misconduct or gross negligence on the part of FUTURA. In such case, the liability of FUTURA shall be limited to 50% of the amount invoiced to the Client for deploying the employee who is most closely connected to the realization of the damage. FUTURA has the right to take measures to undo the damage, to the extent possible.

3. The Client shall co-insure the personnel deployed by FUTURA under its "Hull & Machinery" and "P&I" policies for the vessel and also co-insure them under the accident insurance taken out by the Client.

4. FUTURA does not bear any responsibility for damage caused by personnel deployed by FUTURA to the Client, other personnel or third parties. The Client indemnifies FUTURA and its employees against possible claims of third parties for damage and/or losses caused by personnel deployed by FUTURA during the performance of their work.

5. If the Client does not comply with its obligations arising from the contract for the provision of services and/or these General Terms and Conditions, it is obliged to compensate FUTURA for all damage resulting therefrom, including all costs of judicial and extrajudicial legal assistance, without prior notice of default being required. The above does not affect the fact that FUTURA can take other action, such as calling for the termination of a contract or the suspension of its obligations.

Article 9. Employment of personnel, management and supervision, duration of deployment

1. Personnel that are deployed to the Client are employed by FUTURA. However, during the period that personnel are deployed to the Client, the Client is obliged to supervise and manage these personnel.

2. The Client is not permitted to put the employee to work in a place or area where there is a danger to the health of the employee or where the safety of the employee is or could be endangered.

3. If, after commencement of the work, the health or safety of the employee is or has been endangered, the Client is obliged to repatriate the employee immediately at its own expense.

4. The Client is fully liable for all damage that the employee suffers or will suffer as a result of the impairment of his/her health or safety, in particular in the event of unsafe working conditions in accordance with Article 7:658 of the Dutch Civil Code (Burgerlijk Wetboek).

5. The Client shall at all times indemnify FUTURA against any claims made against FUTURA due to the failure of the Client to comply with the obligations mentioned in this article and authorizes FUTURA to assign its claims to the person(s) directly involved, or to enforce these claims against the Client, also on behalf of FUTURA.

6. The Client is responsible for the implementation of and compliance with the employer's obligations imposed by law with regard to safety and other working conditions, as well as all other locally applicable laws and/or regulations, such as those to prevent discrimination.

7. Pursuant to the Working Conditions Act (Arbowet) and general safety at work, the Client must ensure that the employee does not drink alcohol or use drugs at work, is not under the influence of alcohol or drugs at work, and does not use drugs or drink excessive alcohol outside working hours if the employee is employed by FUTURA and is deployed on a project in such capacity. After consuming alcohol, an alcohol-free period of at least eight hours must be observed before starting work again.

Article 10. Payment

1. Payment must be made in Euros, unless otherwise agreed, by transfer to a bank account designated by FUTURA no later than 30 days after the invoice date, all this unless explicitly agreed otherwise in writing. In the case of payment by bank or giro, the day of payment is the day that the bank or giro account of FUTURA is credited. Set-off of any (alleged) claim by the Client, however named, is excluded. Suspension of the payment of the invoices of FUTURA after the due date is also not permitted.

2. If the Client fails to make payment (in full) on time, it shall be in default without any further notice of default being required. In such case, if there is a sufficient connection with the non-fulfilment of the Client, FUTURA has the right to suspend the fulfilment of all its obligations towards the Client, without being obliged to pay any compensation to the Client and without prejudice to all the rights of FUTURA ensuing from general law.

Non-timely payment of an invoice of FUTURA shall also mean that any other invoices that are not yet due according to the payment term will automatically become due immediately, without any announcement or notice of default being required.

3. If the Client remains in default of timely payment, FUTURA has the right to terminate the contract extra judicially and the Client will forfeit to FUTURA or the credit insurer of FUTURA, without any further notice being required by FUTURA, interest that is equivalent to the statutory rate of interest plus 4% per year, calculated on the unpaid amount, from the due date of the invoice until the day of payment in full. All costs involved in the collection of invoiced amounts (including extrajudicial collection costs) shall be borne by the debtor. The extrajudicial collection costs amount to a minimum of 15% of the principal sum with a minimum of €250.00, all this excluding turnover tax. Moreover, all adverse consequences of an exchange loss or otherwise due to late payment or non-payment, shall be for the account of the Client, even if the Client, in accordance with the provisions in force in its country, has fulfilled its payment obligations on time, but circumstances or measures beyond its control have caused the transfer to take place in a way that is detrimental to FUTURA.

4. FUTURA makes use of factoring. The Client explicitly allows FUTURA to pledge, encumber and transfer its claims against the Client. Any prohibition on pledging on the part of the Client is therefore not applicable to the contract.

5. In the case of bankruptcy, suspension of payments, liquidation, cessation of activities or seizure, FUTURA has the right to terminate the contract extra judicially by means of a registered letter, without notice of default being required.

6. In accordance with Article 6:44 of the Dutch Civil Code (Burgerlijk Wetboek), payments shall first be applied to the costs referred to in paragraph 3, then to the interest due and finally to the principal sum and the accrued interest.

7. If the financial position of the Client deteriorates after the conclusion of the contract, FUTURA shall be entitled to abandon the further performance of the contract, in whole or in part, or to demand a change in the terms of payment and to require the Client to make an advance payment or to provide security for the payment of our invoices.

8. Payments by the Client to the employee shall always be made at the risk of the Client. Advances paid by the Client to the employee must be submitted in writing to FUTURA before payment of salary and the invoicing of the month in question. Before the Client can proceed with the payment, FUTURA must first approve this request for an advance payment. Without written approval of the advance payment, the risk of any negative salary balance shall be borne by the Client.

9. Unless otherwise agreed in writing, all travel and accommodation costs are not included in the agreed daily rates and must be reimbursed by the Client.

10. Costs arising from the timely provision of replacements in the event of illness shall be borne by the Client.

11. Invoices of FUTURA are also based on the timesheets approved by the Client. After approval, any errors on the timesheets are for the account of the Client. In addition, the signature of the captain (or on his behalf) placed on the timesheet represents the approval of the relevant timesheet by the Client.

12. An objection to an invoice received by the Client must be made known to FUTURA within 14 days of the date of the invoice. Notification of an objection shall not suspend the obligation of the Client to pay.

Article 11. Force majeure

Force majeure shall be understood to mean any circumstance beyond the control of FUTURA, which is of such a nature that compliance with the contract cannot reasonably be required of FUTURA (non-attributable shortcomings in compliance). Force majeure includes, but is not limited to: war, riots and hostilities of any kind, blockade, strikes, boycotts, natural disasters, epidemics, lack of raw materials, prevention and interruption of transport options, interruptions in the operations of FUTURA, import and export restrictions or prohibitions, obstacles caused by measures, laws or decrees of international, national and regional (government) authorities. If, due to force majeure, FUTURA is unable to comply with its delivery obligation, or it is unable to do so properly or on time, FUTURA is entitled to consider the contract or the part not yet executed as terminated, or to suspend the contract for a definite or indefinite period of time, such at our discretion. In the case of force majeure, the Client cannot hold FUTURA liable for damage and the obligations of FUTURA arising from the contract will be suspended. Any applicable daily rate shall be maintained for the duration of the force majeure. If the force majeure lasts longer than a period of three months, either party has the right to terminate the contract by means of a written notification to the other party, without notice of default being required.

Article 12. Applicable law

The offers made by us and all contracts entered into by us are subject exclusively to Dutch law.

Futura International BV CoC number 86425587