

## General terms and conditions of Esther Arends - Embodiment of Self

### Definitions:

**Contractor:** the general partnership **Esther Arends - Embodiment of Self**, having its registered offices in Rotterdam, or its affiliated companies or persons.

**Agreement:** an agreement between the Client and the Contractor for the Contractor's provision of services to the Client.

**Client:** the legal entity or natural person placing the order for services.

**Services:** all services performed, including but not limited to the provision of body-centered education, workshops, teacher training and other courses, coaching, and NIA fitness classes.

**Participant:** the natural person participating in a guidance process for body-centered education, teacher training and other courses, coaching, or NIA fitness classes.

### 1. Scope of the general terms and conditions

- 1.1. These general terms and conditions are applicable to all offers and Agreements under which the Contractor offers or provides Services.
- 1.2. These general terms and conditions also apply to all Agreements under which the Contractor engages third parties for the performance of the work.
- 1.3. Departures from these general terms and conditions are binding exclusively if, and insofar as, they have been agreed in writing between the Client and the Contractor.
- 1.4. The Client's purchasing or other general conditions are not applicable unless the Contractor has explicitly accepted them in writing.
- 1.5. If a provision of these general terms and conditions proves to be void or is annulled, the remaining provisions of these general terms and conditions will remain fully applicable. In that case, the Client and the Contractor enter into consultation in order to reach an Agreement on new provisions that are as close as possible to the purport and the purpose of the original provisions to replace the invalid or annulled ones or both.
- 1.6. These general terms and conditions are also applicable to additional engagements and subsequent engagements of the Client.

### 2. Formation of the Agreement

- 2.1. Unless otherwise stated, an offer by the Contractor is subject to contract and remains valid for 31 days. The offer is binding to the Contractor only if it is accepted by the Client or Participant without reservation or amendment and is confirmed to the Contractor within the stipulated term of validity using the Contractor's online system.
- 2.2. An offered price does not include VAT unless explicitly stated otherwise.
- 2.3. As far as the Participant is concerned, the Agreement will be formed once the Participant has registered using the Contractor's online registration form and has received an e-mail confirming its registration. If an Agreement concerns the Client, the Agreement will be formed once the Client accepts the offer sent by the Contractor by electronic or other means.

### 3. Performance of the Agreement

- 3.1. All Agreements constitute a best efforts obligation on the part of the Contractor, and the Contractor discharges its obligations with the greatest possible care and the necessary degree of professionalism.
- 3.2. The Contractor reserves the right, in all cases it deems useful or necessary, to have certain parts of the work carried out by third parties or with the assistance of third parties in all cases it deems useful or necessary and following consultation with the Client.
- 3.3. The Client ensures that all information that the Contractor indicates is required for the performance of the Agreement is issued to the Contractor properly, fully, and in a timely manner. If the information required for the performance of the Agreement is not issued to the Contractor in a timely manner, the Contractor has the right to suspend its performance of the Agreement, or to charge the Client for the extra costs caused by the delay at the usual rates, or take both of these actions.
- 3.4. If the Contractor has agreed on a deadline for the completion of certain activities, this is not considered a strict deadline unless this has been explicitly agreed. If no explicit Agreement has been made, failure to meet the agreed deadline does not constitute an attributable breach on the part of the Contractor. The Client is therefore unable to dissolve the Agreement for that reason and will not be entitled to compensation. If an explicitly agreed deadline is not met, however, the Client has the right to set a new, reasonable deadline in which the Contractor must perform the Agreement. Failure to meet this deadline may constitute grounds for the Client to dissolve the Agreement.

### 4. Fee and expenses

- 4.1. The Contractor's fee may consist of a predetermined sum of money for an education, workshop, guidance or coaching process, or may be based on rates for the time unit worked by the Contractor.
- 4.2. All fees are exclusive of government levies and traveling and other expenses incurred for the Client or Participant, including but not limited to expenses claims of third parties engaged for the performance of the Agreement.
- 4.3. If a fixed price has been agreed for the performance of certain Services and provision thereof results in extra work or activities that cannot reasonably be considered to be included in the fixed price, the Contractor must promptly inform the Client of the financial implications of said extra work or activities.
- 4.4. The Contractor may ask the Client to pay a reasonable advance on the fees owed, or to be owed, by the Client, or on expenses to be incurred for the Client or Participant. If the Contractor has requested a reasonable advance, it is entitled to suspend the performance of the Services until the Client has paid the advance to the Contractor or has furnished security for this purpose.
- 4.5. The fee is set for each education, workshop, guidance, or coaching process in any given year. The Contractor may not rely on previous pricing agreements when purchasing the same package in the subsequent year.

### 5. Payment conditions

- 5.1. The Client or Participant, or the company or organization registering on the Participant's behalf, is liable for the price payable under the Agreement entered into with the Client, or the price that applies when the Client or Participant is placed for an education, workshop, guidance or coaching process as evident from the Contractor's confirmation. If the payable amount has

not been transferred to the Contractor's bank account at the latest by the date of the activity in question, the Client or Participant may be excluded from participating unless other payment agreements have been made under an Agreement with the Client.

- 5.2. Prior to commencing the work, the Contractor has the right to require the Client to make a down payment of a maximum of 50% of the total amount owed to the Contractor.
- 5.3. Payment is due within fourteen (14) days of the invoice date and is payable as indicated by the Contractor. Payment is made without any deductions, set-off, or suspension of any nature whatsoever.
- 5.4. The Client or Participant is in default after fourteen (14) days of the date of invoice. From the time of default onwards, the Client or Participant is liable to pay a default interest equal to the statutory interest rate on the overdue amount.
- 5.5. If there are several Clients, each Client is jointly and severally liable to the Contractor for the payment of the total invoice amount if the Services have been performed for all of these Clients.
- 5.6. Payments made by the Client will first extend to the settlement of all payable interest and costs, and subsequently to the overdue and payable invoices that have been outstanding for the longest amount of time, even if the Client states that the payment relates to a later invoice.

#### **6. Debt collection costs**

- 6.1. If the Client or Participant fails to pay in a timely manner, the Contractor will, after issuing a written demand for payment, refer the debt for collection in accordance with the provisions of the following two clauses (a. and b.).

- 6.1.1. If the Client is a consumer, the debt collection costs will be charged in accordance with the Dutch Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*), as provided for in Book 6 Article 96 (4) of the Dutch Civil Code. The determining factor in this regard is whether the matter concerns obligations to pay a sum of money under an Agreement or the payment of compensation based on a settlement Agreement, or an obligation to pay a sum of money that has been converted into an obligation to pay alternative compensation within the meaning of Book 6 Article 87 of the Dutch Civil Code. Since the Client is an entrepreneur liable for the payment of VAT, the debt collection costs will not be subject to VAT.

The payable rates are as follows:

Minimum rate €40.00, 15% over the first €2,500.00, 10% over the next €2,500.00, 5% over the next €5,000.00, 1% over the next €190,000.00, 0.5% over the remainder of the principal amount up to a maximum of €6,775.

- 6.1.2. If the Client is a legal entity or a natural person acting in the course of a profession or as a company, a claim will be made for extrajudicial collection costs in the amount of 15% of the payable principal amount, with a minimum amount of €75.00.

#### **7. Confidentiality**

- 7.1. The Contractor is obliged to preserve the confidentiality of all confidential information that has come to its notice in the context of the Agreement with the Client or other parties. In any case, confidential information is deemed to be information that the Client has stated is confidential, or to be information that can reasonably be presumed to be confidential. All conversations will be treated with the utmost confidentiality. None of the matters discussed are intended to be communicated to others without the consent of both the Contractor and the Client.
- 7.2. The Contractor will impose the same duty of confidentiality on its employees or on third parties engaged to perform an assignment.
- 7.3. Personal conversations of any nature whatsoever held in the context of an individual education, workshop, guidance, or coaching process between the Contractor and a Participant will therefore be treated as strictly confidential to as great an extent as possible. The above does not rule out verbally discussing the developments and progress of the Participant with the Client, but this is subject to the proviso that official written reports are shown to and approved by the Participant beforehand.

#### **8. Intellectual property**

- 8.1. The Contractor is the party entitled to the intellectual property rights concerning the products issued, or used, in the context of the Agreement to the Client or Participant, including but not limited to the book entitled *Journey Through the Body*, tests, website, and other texts, photos, videos, logos, readers, educational program concepts, or courses and teacher training, reports, methods, models, and exercise materials.
- 8.2. Without the explicit written consent of the Contractor, the Client or Participant may not use these products for which the Contractor is the party entitled to the intellectual property rights other than for the purposes of the Agreement.
- 8.3. The Contractor has the right to use the information obtained through the performance of the work for other purposes provided that this does not involve bringing any confidential information to the notice of third parties and this information cannot be traced back to individual Clients or Participants.
- 8.4. The Client or Participant indemnifies the Contractor against claims of third parties for the alleged infringement of property rights, patents, copyrights, or other intellectual property rights in connection with the performance of the Agreement. Copyrights will be paid in full to Buma by the Client or Participant.

#### **9. Limitation or exclusion of liability**

- 9.1. If the Contractor is engaged to complete an order or part of an assignment in collaboration with a third party, the Client will stipulate the tasks of each party in consultation with all those involved. The Contractor does not accept any joint and several liability or liability for the performance of the task and the accompanying work of the third party. The Contractor is exclusively liable to the Client or Participant for damages caused by a serious attributable breach of the Agreement, which will be deemed to have occurred if the Contractor fails to perform the Agreement with the required due care and expertise.
- 9.2. If it is demonstrated that the damages in the sense of paragraph 1 of this Article can be attributed to willful act or omission or gross negligence on the part of the Contractor, the compensation for damages in that regard is limited to the principal amount

of the Services performed and the amounts invoiced for that purpose, but does not under any circumstances exceed the amount payable or paid by the Client to the Contractor in the previous six months.

- 9.3. The individual and group education, workshop, guidance, or coaching process is followed entirely at the Participants' own risk. The Contractor cannot in any way be held liable for an injury sustained by the Participant during or after the education, workshop, guidance, or coaching process. If requested by the Contractor, the Participant is obliged to truthfully complete a health and excess risk declaration prior to any service provided by the Contractor.
- 9.4. If an injury or loss caused to a person or property as a result of or in connection with the Contractor's provision of Services, and the Contractor is liable for said injury or damage, its liability will be limited to the principal amount of the invoiced amounts.
- 9.5. The Contractor is not obliged to pay compensation for any indirect losses suffered by the Client or Participant, including but not limited to consequential losses, loss of profits, and losses resulting from business interruption.
- 9.6. The Contractor will act with due care when engaging third parties not employed at its organization. The Contractor cannot be held liable for any serious breaches in respect of the Client or Participant or for any errors or breaches on the part of these third parties. In cases such as these, the Client is obliged to hold the engaged third parties liable on its own behalf and to recover from these third parties any losses suffered.
- 9.7. The Client indemnifies the Contractor against all claims, such as claims for losses and legal actions, of third parties related to the performance of the Agreement between the Client and the Contractor unless they concern claims resulting from intentional act or omission or gross negligence on the part of the Contractor.

#### **10. Force majeure**

- 10.1. The Contractor is not obliged to meet any of its obligations to the Client or Participant if prevented from doing so by circumstance beyond its control and for which it cannot be held accountable by virtue of the law, a legal act, or generally accepted standards.
- 10.2. In these general conditions, force majeure is defined, in addition to that which is deemed as such by law and legal precedent, as all external circumstances, foreseen or unforeseen, that are beyond the control of the Contractor and which prevent the Contractor from meeting its obligations. Such situations include strikes at the company of the Contractor or of third parties. The Contractor is also entitled to invoke force majeure if the circumstance preventing compliance or further compliance with the Agreement occurs after the Contractor should have met its obligations.
- 10.3. The Contractor may suspend its contractual obligations during the period of force majeure. If the period of force majeure lasts for longer than two months, each party is entitled to dissolve the contract without being obliged to pay any compensation for losses to the other party.
- 10.4. To the extent that the Contractor has partly fulfilled its obligations under the Agreement, or will be able to do so, at the time when the force majeure commences, and the fulfilled part or the part to be fulfilled constitutes an independent value, the Contractor is entitled to separately invoice the part that has already been fulfilled or has yet to be fulfilled. The Contractor is obliged to pay that invoice as if it were for a separate Agreement.

#### **11. Termination of the Agreement**

- 11.1. The Contractor is entitled to terminate the Agreement with immediate effect and without the requirement of legal intervention by means of a written notification to the Client if the Client or a Participant remains in default of payment of an invoice sent by the Contractor within fourteen (14) days of a written demand for payment.

#### **12. Cancellation conditions**

##### *General*

- 12.1. The Contractor reserves the right, without giving reasons, to cancel an education, workshop, guidance, or coaching process or to reschedule or refuse admittance to the Client or a Participant, in which cases the Client is entitled to full reimbursement of the amount it has paid to the Contractor.
- 12.2. If following commencement of the education, workshop, guidance, or coaching process the Client prematurely terminates participation or otherwise does not take part in the activity, the Client or Participant is not entitled to any reimbursement. If cancellation does not take place in accordance with the following conditions, the Client or Participant is obliged to pay the total amount for the education, workshop, guidance, or coaching process.
- 12.3. The Participant has the right to dissolve the distance Agreement during a seven-day cooling-off period without giving reasons. The cooling-off period commences on the day following that on which the contract is concluded. A distance Agreement cannot be dissolved if there are Services tailored to individual requirements or if the Contractor has already begun the performance of the service with the Client's approval.
- 12.4. The Contractor will charge a standard administration fee of €20.00 for all cancellations.

##### *Courses and teacher training*

- 12.5. The Client or Participant has the right to cancel in writing participation in or an order for a training course. Courses may be canceled free of charge within two (2) weeks prior to the first day of the scheduled activity. The Client or Participant will be obliged to pay 50% of the agreed amount for the activity or activities if a cancellation is reported less than two (2) weeks prior to the first day of the scheduled activity. The Client or Participant will be obliged to pay 100% of the agreed amount for the activity or activities if a cancellation is reported less than one (1) week prior to the first day of the scheduled activity.
- 12.6. In consultation with the Contractor, the Client or Participant may have another Participant take part in the activity instead of the registered Participant, provided that the Contractor is promptly informed of this and that this is appropriate to the target group. A replacement as provided for above following commencement of the activity is only possible with the written consent of the Contractor.

#### **13. Dispute adjudication and applicable law**

- 13.1. All Agreements and legal acts between the Client and the Contractor are governed by Dutch law.
- 13.2. The Parties must not refer a matter to court until they have done their utmost to resolve the dispute by means of mediation.
- 13.3. The competent court in the Contractor's place of business has exclusive jurisdiction to examine any disputes between the

Parties.

- 13.4. The most recently filed version or the version of the general terms and conditions that was applicable at the time when the Agreement was formed is applicable at all times.
  - 13.5. The Contractor reserves the right to amend the general terms and conditions and to declare the amended general terms and conditions applicable to existing Agreements.
  - 13.6. If the Contractor declares the amended general terms and conditions applicable to existing Agreements, the Contractor must announce the amendments in a timely manner. These amended conditions come into effect thirty-one (31) days following the written announcement unless a later date is given in the announcement.
  - 13.7. If the Client is unwilling to accept an amendment to the general terms and conditions, it may terminate the Agreement towards the date on which the amended conditions come into effect. In that case, the Client must report the termination to the Contractor as soon as possible but at the latest within two (2) weeks of the written announcement.
- Prior to commencing the work, the Contractor has the right to require the Client to make a down payment of a maximum of 50% of the total amount owed to the Contractor.