



GENERAL TERMS AND CONDITIONS

1. About Lean Management Instituut

- 1.1. Stichting Lean Management Instituut is a foundation (*stichting*) under Dutch law with its official seat at Prins Hendriklaan 35, 3701 CL in Zeist and registered with the Chamber of Commerce under file number 30194663 (**LMI**). LMI's VAT number is NL813028607B801.
- 1.2. To contact LMI, please send an e-mail to: info@leaninstituut.nl, call telephone number: +31 (0)85 876 93 46 or visit our website at: www.leaninstituut.nl.

2. Definitions and interpretation

- 2.1. In these General Terms and Conditions, the terms used are defined as follows:

Agreement:	the agreement for the provision of services that is concluded with due observance of the provisions of Article 3.
Client:	the legal entity, partnership or natural person acting in the performance of a profession or business with whom the Agreement is concluded.
Confidential Information:	all information in whatever form (written, electronic or otherwise), including but not limited to the Materials, and of whatever nature that the receiving Party knows or should reasonably know to be confidential, including trade secrets and the content of the Agreement.
Direct Damages:	means exclusively: <ol style="list-style-type: none">a) the reasonable costs that the Client would have to incur to make LMI's performance conform to the Agreement, in which case these costs are not eligible for compensation if the Agreement has been dissolved (<i>ontbonden</i>) by the Client in whole or in part;b) the reasonable costs incurred in determining the cause and the extent of the damages, insofar as the determination relates to the provisions at a);c) the reasonable costs incurred to prevent or mitigate damages as referred to at a); andd) the reasonable costs incurred to obtain compensation of damages as referred to above.
Force majeure:	force majeure within the meaning of Article 6:75 of the Dutch Civil Code, on the understanding that a failure on the part of the person engaged by LMI in the performance of the Agreement will always constitute force majeure on the part of LMI.
General Terms and Conditions:	these general terms and conditions of Stichting Lean Management Instituut.
Materials:	reports, manuals, case studies, exercises, tutorials, analyses, presentations, teaching and other materials, in whatever form.
Offer:	LMI's offer, in whatever form, to provide Services.
Parties:	LMI and the Client jointly; the Parties are also referred to separately as Party .
Services:	the services to be provided to the Client by LMI as described in the Offer.

- 2.2. Unless explicitly stated otherwise in these General Terms and Conditions:

- a) **written** is understood to include electronic communications by e-mail;
- b) a reference to an **Article** is deemed a reference to an article of these General Terms and Conditions;
- c) a reference to Agreement is understood to also refer to these General Terms and Conditions; and
- d) time limits, with the exception of payment periods, are only indicative and not firm deadlines (*fatale termijnen*).

- 2.3. In the event of a conflict between a provision of the General Terms and Conditions and a provision of the Agreement (without these General Terms and Conditions), the provision of these General Terms and Conditions takes precedence, unless it has been expressly agreed in the Agreement that the relevant article in the General Terms and Conditions will be deviated from.



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- 2.4. All Offers by LMI are subject to confirmation, unless the Offer sets a term for acceptance. If no term for acceptance is set, no rights can be derived from the Offer if the Services to which the Offer relates have become unavailable in the meantime.

3. Agreement

- 3.1. The Agreement comes into effect at the moment that the Client agrees to the Offer in writing.
- 3.2. Any counterproposal by the Client to receive the Services on the basis of terms and conditions other than those described in the Offer and/or these General Terms and Conditions will only be considered accepted by LMI if this acceptance is declared in writing (not by e-mail) and is signed by a person authorised to represent LMI, in which case the Agreement will come into effect at such time.
- 3.3. LMI will provide the Services to the Client in accordance with the provisions of the Agreement. The Services will only be performed on the basis of a best efforts obligation (*inspanningsverplichting*).

4. Fees and payment

- 4.1. The Client will owe LMI the fees as agreed upon in the Agreement (the **Fees**). Unless otherwise stipulated in the Agreement, payment for the Services is charged retrospectively based on the applicable rates of LMI.
- 4.2. Unless provided otherwise in the Agreement:
- a) the Fees are exclusive of expenses, VAT and other government levies;
 - b) the amounts stated in the Offer are indicative only and the Fee owed is calculated on the basis of the number of hours actually spent; and
 - c) LMI will charge the Fees, plus VAT and any expenses owed, to the Client monthly in arrears.
- 4.3. The Client must always pay invoices to LMI within fourteen days of the invoice date at the latest, to the bank account number indicated in the invoice, unless LMI and the Client stipulate a different payment term in the Agreement. The Client is not entitled to suspend any payment or to set off any amounts owed.
- 4.4. During the term of the Agreement, LMI has the right to adjust the applicable hourly rates annually, on the basis of (among other things) the price index for commercial services. In addition, LMI has the right to adjust the Fees in accordance with the amended tax and other laws and regulations in the event of legislative changes.

5. Duration and termination

- 5.1. The Agreement is entered into for the duration of the order as set out in the Agreement. If the order under the Agreement does not end by completion, the Parties will have the right to terminate the Agreement without observing any notice period. If all or part of the Services have already been scheduled, the Client will, in the event of cancellation by the Client within 10 days prior to the (first) scheduled activity, always owe LMI the full Fees for the Services to be performed.
- 5.2. The Parties have the right to dissolve (*ontbinden*) the Agreement in whole or in part with immediate effect in the event:
- a) that the other Party requests or is granted a suspension of payments or bankruptcy;
 - b) of an attributable failure (*toerekenbare tekortkoming*) in the performance of an essential obligation under the Agreement that – if default (*verzuim*) has not already occurred by operation of law – has not been remedied by the defaulting Party within a reasonable period of thirty days following a detailed notice of default. In any event, payment obligations are always to be regarded as essential obligations; or
 - c) of Force Majeure on the part of the other Party continuing for more than sixty days.



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- 5.3. The Parties agree that, in the event of dissolution (*ontbinding*) in whole or in part, the performance already received under the Agreement will not be subject to reversal within the meaning of Article 6:271 of the Dutch Civil Code.
- 5.4. In the event that the Agreement has been dissolved (*ontbonden*) by LMI for whatever reason, the Fees owed by the Client will be immediately due and payable.
- 5.5. In the event that one of the Parties terminates (*zegt op*) the Agreement, the Fees for Services already rendered will always be payable in full by the Client, such in deviation from Article 7:411 of the Dutch Civil Code.

6. Limitation of liability

- 6.1. With due observance of the provisions of this Article 6, LMI's total liability by whatever virtue (attributable failure, unlawful act or otherwise) is limited to Direct Damages up to the amount that LMI invoiced to the Client (excluding VAT) during the three months preceding the event giving rise to the damages, or the first event giving rise to the damages. A series of related events will be considered as a single event.
- 6.2. Except in the event of intent or deliberate recklessness on the part of LMI or its management, LMI's liability for any damages other than Direct Damages is expressly excluded.
- 6.3. The provisions of this Article 6 and all other limitations and exclusions of liability in the Agreement will also apply in favour of the persons engaged by LMI in the performance of the Agreement and all persons affiliated to it.
- 6.4. The Client indemnifies (*vrijwaart*) LMI against all third-party claims arising out of or in connection with the Client's non-compliance with the provisions of the Agreement.

7. Intellectual property rights

- 7.1. All intellectual property rights, including copyrights, with respect to the results of the Services and the Materials are vested in LMI and its licensors.
- 7.2. The Client will obtain a non-exclusive and non-transferable right to use (*gebruiksrecht*) the results of the Services and the Materials for internal purposes within the Client's organisation. The aforementioned right of use does not include the right to grant sublicences to third parties, including the Client's parent company, subsidiaries or group companies. LMI is entitled to charge licence fees for the use of Materials.
- 7.3. The Client is prohibited from using the results of the Services and/or the Materials to provide services to third parties that are similar, comparable or in competition with the Services.
- 7.4. The Client is aware that violation of an agreed-upon limitation of use in the Agreement implies both an attributable failure (*toerekenbare tekortkoming*) in the performance of the Agreement and an infringement of LMI's intellectual property rights.



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8. Confidentiality

8.1. The Parties undertake to:

- a) keep the Confidential Information strictly confidential and not share the Confidential Information in whole or in part with third parties or make it available to them for inspection without the prior written consent of the providing Party;
- b) only disclose the Confidential Information to such employees of the receiving Party and other auxiliary persons engaged by it as are required to have knowledge thereof for the purposes of the performance of the Agreement; and
- c) not use the Confidential Information for any purpose other than that for which it received it.

8.2. The obligations set forth in this Article will not apply to Confidential Information of which the receiving Party proves that this Confidential Information:

- a) was already known to that Party before it was provided to it by the providing Party;
- b) was known to the public before it was provided to the receiving Party by the providing Party or in any case was generally available to the public before the provision of the relevant information to the receiving Party by the providing Party;
- c) became publicly known or available – without the receiving Party or its auxiliary person being directly or indirectly responsible for this – on or after the date on which the receiving Party received the information in question from the providing Party;
- d) had to be made public on the basis of a court order or at the request of a public authority or on the basis of a statutory duty; and/or
- e) should be made public in court in order to enforce or defend its rights.

9. Privacy

9.1. LMI handles personal data with care. Personal data is processed and secured by LMI. LMI's privacy statement can be found on its website.

10. Miscellaneous

10.1. The Agreement and the Services to be provided on the basis thereof constitute an order for the provision of services (*overeenkomst van opdracht*) within the meaning of Articles 7:400 et seq. of the Dutch Civil Code. The applicability of Articles 7:404, 7:407(2) and 7:408(1) of the Dutch Civil Code is excluded.

10.2. A Party is not obliged to fulfil its obligation in the event of Force Majeure.

10.3. LMI is entitled to unilaterally amend the Agreement and the General Terms and Conditions. In that case, LMI will inform the Client of the changes in a timely manner. Amendments or changes at the request of the Client are only valid if the Parties have agreed on this in writing (not by e-mail).

10.4. The Agreement applies between the Parties. With the exception of the provisions of Article 6.3, third parties cannot invoke the provisions of the Agreement.

10.5. If a provision of the Agreement is or becomes invalid, null and void, or is voided or declared non-binding, the Parties will continue to be bound by all other provisions of the Agreement. In that case, the Parties will replace the provision in question by a provision that is valid and binding and that, in view of the subject matter and purpose of the provision in question and the Agreement, will, as far as possible, have the same effect as the invalid, null and void, voided or non-binding provision.



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11. Complaints procedure

LMI attaches great value to the satisfaction of the Client. If the Client is dissatisfied with the performance of the Agreement or the quality of the Services, LMI has a complaints procedure in place to which the Client can appeal. The complaints procedure can be found at www.leaninstituut.nl/klacht/.

12. Applicable law and disputes

12.1. The Agreement is governed by Dutch law.

12.2. Any disputes arising out of or in connection with the Agreement will be submitted exclusively to the Midden-Nederland District Court, location Utrecht.