

# General Terms and Conditions Qconcepts<sup>1</sup>

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## 1 GENERAL

The definitions stated below in capital letters have the following meaning in the context of these general terms and conditions:

- 1.1 Client: The natural person or the legal entity who/which has provided the Contractor with the Assignment to execute Work.
- 1.2 The Contractor: Q-Concepts Accountancy, Interim en Advies<sup>1</sup>. All assignments are exclusively accepted and executed by Contractor, not by or on account of an individual Employee, even if the Client has provided the Assignment expressly or tacitly for the purpose of execution thereof by a specific Employee or specific Employees. The applicability of Sections 404, 407 subsection 2 and 409, Book 7 of the Civil Code is expressly excluded.
- 1.3 Assignment/Agreement: the agreement for the provision of services pursuant to Section 400, Book 7 of the Civil Code, under which the Contractor undertakes towards the Client to execute work as specified in the order confirmation issued to the Contractor by the Client.
- 1.4 Professional regulations: the professional rules and rules of conduct that govern all accountants due to registration in the accountants' register of the NBA (the Netherlands Institute of Chartered Accountants).
- 1.5 Documents: all (written) information or data made available by the Client to the Contractor; all data produced or collected by the Contractor in the context of the execution of the Assignment/Agreement; and all other (written) information of any relevance for the execution or completion of the Assignment. The aforesaid information can be stored in tangible or intangible data carriers, whether or not placed with third parties;
- 1.6 Employee: a natural person or legal entity employed by or associated with Contractor, on the basis of an employment contract or assignment agreement.
- 1.7 Work: all work to be executed by Contractor for the benefit of the Client for which an Assignment is provided and which has been accepted by the Contractor, as well as all work and/or activities and/or services rendered ensuing therefrom for, and to be executed by, the Contractor.
- 1.8 Audit Assignment: an Assignment for auditing as defined in the Further regulations for auditing and other standards ("Nadere voorschriften controle- en overige standaarden");
- 1.9 Services other than audit of financial statements: an Assignment that does not fall under the definition of Audit Assignment.

## 2 APPLICABILITY

- 2.1 These general terms and conditions apply to all offers, tenders, Assignments, legal relationships and Agreements, by whatever name, for which the Contractor undertakes/will undertake to execute Work for the Client, as well as all Work ensuing therefrom for the Contractor.
- 2.2 Derogations from, or addendums to, these general terms and conditions, shall only be valid if these have been expressly agreed in writing in, for example, an Agreement (in writing) or in (a further) confirmation of the Assignment.
- 2.3 If any provision in these general terms and conditions and the Assignment confirmation letter were to be conflicting, the provision set out in the Assignment confirmation letter shall be applicable as regards the contradiction.
- 2.4 These general (purchase) terms and conditions also apply to any additional or subsequent Assignments.
- 2.5 The applicability of the General Terms and Conditions of the Client is expressly rejected by the Contractor.
- 2.6 Natural persons and legal entities that are involved in the activities, directly or indirectly or in any manner whatsoever, whether or not on the basis of an employment contract, can rely on these general terms and conditions.

## 3 ESTABLISHMENT OF THE AGREEMENT

- 3.1 The Agreement consists of these general terms and conditions, together with the confirmation of the assignment and will be established at such time when the assignment confirmation, signed by the Client and Contractor, has been received by the Contractor. As long as the assignment confirmation has not been received, the Contractor reserves the right to suspend the execution of the Assignment. The assignment confirmation is based on the information provided by the Client to the Contractor at that time and for that purpose. The assignment confirmation will be deemed to represent the Agreement correctly and completely.
- 3.2 In the event the Assignment has been agreed verbally, or in case the assignment confirmation have not (yet) been signed and received, the Assignment will be deemed to have been established subject to these general terms and conditions from the moment the Contractor commences implementation of the Assignment at the request of the Client.
- 3.3 The Agreement supersedes and replaces all prior proposals, correspondence, agreements or other communication both in written and verbal form.
- 3.4 The Agreement is entered into for an indefinite period of time, unless the content, nature or purport of the Assignment awarded indicates it was entered into for a defined term.

## 4 CLIENT ASSISTANCE

- 4.1 The Client must ensure that all data and Documents required by Contractor in his/her opinion for the correct and timely execution of the Assignment, are available to the Contractor in the required form and manner. The Contractor will determine what must be taken to mean by the required form, the required manner and a timely manner. These include in any case data and documents pertinent to the (possible) specific risks relating to safety and health connected to the Work activities to be carried out, as well as further data concerning the possible measures taken to prevent or manage such risks, insofar as the Contractor is to carry out Work activities at the Client's location.
- 4.2 The Client guarantees the accuracy, the completeness and the reliability of the Documents provided by the Client, including if these originate from third parties, insofar as this does not ensue otherwise from the nature of the Assignment.
- 4.3 The Contractor has the right to suspend the execution of the Assignment until the time when the Client has fulfilled the obligations referred to in the first subclause.
- 4.4 The Contractor must ensure that the Client is informed without delay on facts and circumstances that may be of significance in relation to correct execution of the Assignment.
- 4.5 The extra costs incurred by the Contractor and extra hours worked by the Contractor, as well as the further loss or damage suffered by the Contractor, due to not, not in a timely manner, or not properly provided by the Client of the Documents necessary for the execution of the Work, will be at the Client's risk and expense.
- 4.6 In the event that the Client does not provide the Contractor with information, or this information is incorrect or incomplete, the Client will be fully liable for the damage arising for it or third parties and the Client will fully indemnify the Contractor for this.
- 4.7 The Contractor must ensure that the Client is provided with office space and other facilities deemed necessary or useful by the Contractor for the execution of the Agreement. These facilities should comply with all (legal) requirements. The Client is responsible for supplying the Employee with an office space or a workplace and any necessary tools and facilities, unless the Client agrees that these tools will be supplied by the Employee himself. This includes the use of computer and telephone facilities. With regard to (computer) facilities made available, the Client is obliged to safeguard continuity by way of sufficient backup, security and virus-checking procedures. The Contractor will apply virus-checks when making use of the Client's facilities.
- 4.8 In the event this is required on the basis of the legislation and/or regulations applicable to the Assignment, the Client consents - at the request of the Contractor and without delay - to providing the correct information relating to the working conditions of the Client's employees who execute activities that are identical or similar to Employee's activities during the Assignment.
- 4.9 In the event this is required on the basis of the legislation and/or regulations applicable to the Assignment and arising from the information obtained, the Client must apply an equal or similar process to the Employee as is applied to ascertain the working conditions that can be directly ascribed to the volume or quality of the work executed.
- 4.10 Unless the nature of the Assignment dictates otherwise, the Client must make the personnel deemed necessary by the Contractor available or have made available for the purpose of enabling Contractor to carry out activities. If specific personnel is required, this will be agreed and recorded in the assignment confirmation/engagement letter. The Client shall ensure that its personnel have the appropriate skills and experience to provide adequate support for the performance of the work.
- 4.11 The Client must ensure that the Employee is able to carry out the activities in accordance with a safe system of working. The Client shall indemnify the Contractor and will maintain this indemnification vis-a-vis any form of financial disadvantage or liability that may be invoked against the Contractor as a result of a claim by the Employee arising from injury or damage to his/her property (among other things) during the execution of the Assignment as fulfilled by the Employee.

- 4.12 Client guarantees and undertakes not to deny the Employee's claims to rights pursuant to legislation and regulations.
- 4.13 The Client will treat all registered personal data of an Employee made known to the Client by the Contractor or a third party engaged by it before and during the Assignment, confidentially, and more particularly, process this data in accordance with the General Data Protection Regulation (GDPR, AVG) and/or the related legislation. The Client and the Contractor are obliged to act in full compliance with the GDPR (AVG) or other privacy laws and regulations and will therefore exchange in a timely manner all relevant information necessary to comply with and continue to comply with the obligations pursuant to the AVG and related laws and regulations.
- 4.14 The Client will inform the Employee of any personal data registered about him or her and how, when and for which purposes these data are processed.
- 4.15 The Client indemnifies the Contractor with regard to any claim by a third party (including the Employee) related to non-compliance with the GDPR (AVG) and related privacy laws and regulations, unless this is the result of an attributable shortcoming on the part of the Contractor.
- 4.16 In the event of electronic transmission by the Contractor of information including (but not limited to) tax returns, annual accounts, reports of (and on the orders of) the Client to third parties, the Client will be regarded as the party that signs and sends the information concerned.
- 4.17 The Contractor will, upon first request in writing from the Client, return to the Client the original Documents provided by the Client.

## 5 EXECUTION OF THE ASSIGNMENT

- 5.1 The Contractor will execute the Assignment to the best of his/her abilities and with due regard to the applicable legislation and (Professional) regulations.
- 5.2 The Contractor determines the manner in which the Assignment will be executed and by which Employee(s). The Work is performed independently. Employees shall not work under the authority, direction or supervision of the Client. The Client may only give instructions to Employees regarding the course or result of the Work.
- 5.3 The Contractor has the right to have Work executed by a third party to be appointed by the Contractor.
- 5.4 All activities and work carried out by the Contractor will be done according to its best insights and abilities in accordance with the requirements of good workmanship. A best efforts obligation is placed on the Contractor with regard to the intended activities and work, unless expressly agreed otherwise.
- 5.5 The Contractor will maintain a work file, containing copies of relevant document, in connection with the Assignment. This file will remain the property of the Contractor.
- 5.6 An Employee who carries out the Assignment is employed by the Contractor or a third party, or is self-employed (without employees). Insofar as the Employee is employed by Contractor, this will be on the basis of an employment contract within the meaning of Section 7:610 of the Dutch Civil Code, not being a temporary employment or payroll contract. There is no question of posting within the meaning of the Dutch Workforce Allocation Act (Waad), nor of temporary employment within the meaning of Section 7:690 of the Dutch Civil Code. Insofar as the Employee is self-employed and fulfils an Assignment for the Client, the Contractor will ensure that an assignment agreement based on the model approved by the Tax Authorities, as referred to in the DBA Act (Employment Deregulation Assessment Act), is concluded for this purpose.
- 5.7 Insofar as not otherwise stipulated in the general terms and conditions, rights of action and other powers held by the Client for whatever reason including vis-à-vis the Contractor in connection with the performance of Work by the Contractor shall lapse in any case one year after the time when the Client became aware or could have reasonably become aware of the existence of these rights and powers. This deadline shall not relate to the option to submit a complaint to the relevant competent authority/ies for the handling of complaints and/or to the Raad voor Geschillen (Disputes Council).

## 6 CONFIDENTIALITY, DATA PROTECTION AND PROFESSIONAL REGULATIONS

- 6.1 Unless (i) any (inter) national legal provision, regulation or other (professional) rule obliges the Contractor to disclose; or (ii) Contractor or persons associated with or working for/at the Client's location act(s) in disciplinary, civil, administrative or criminal proceedings, where this information may be relevant, the Contractor and the Employee deployed by the Contractor shall not disclose or provide to third parties any confidential information and personal data other than those referred to in paragraph 2.
- 6.2 The Client agrees that, within the framework of: (i) an Assignment provided by the Client to the Contractor, (ii) the compliance with statutory regulations placed on the Contractor and (iii) risk management and quality review requirements, the Contractor processes confidential information and personal data related to the Client and/or persons (previously) working for/at or connected to the Client, its clients or third parties, including sharing these data with parties involved with the execution of the Assignment, if necessary.
- 6.3 The Contractor will take suitable technological and organisational measures for the protection of the confidential information and personal data originating from the Client by informing the third parties and employees to be engaged of the confidential character of the information. The processing of personal data by the Contractor will take place in accordance with the GDPR (AVG) and/or other related laws and regulations applicable to the protection of personal data. Unless any statutory regulation, stipulation or other (professional) regulation applies that creates a disclosure obligation for the Client, or unless the Contractor has granted prior written permission, the Client will not publicise or divulge to third parties the contents of reports, recommendations, or other expressions, written or otherwise, by the Contractor.
- 6.5 The Contractor and Client will impose their obligations on the basis of this section on any third parties to be engaged by them. The parties will use reasonable endeavours to ensure that their employees who are involved in the Assignment enter into an agreement that contains an obligation for the employee to keep all confidential information received from the other party confidential. For the purposes of this section, confidential information is confidential if it is clearly indicated as confidential or if the party to which the information relates clearly declares in writing to the employee that it is confidential.
- 6.6 The Contractor is entitled to specify the Client's name and an outline of the activities carried out, to (commercial) contacts of the Contractor, and only as an indication of the Contractor's experiences.
- 6.7 The Client must provide constant and complete cooperation to the obligations arising from the applicable (Professional) regulations imposed on the Contractor. Where possible, the Client and Contractor will provide mutual assistance in fulfilling the obligation to respond to requests by natural persons exercising their given privacy rights pursuant to rules and regulations.
- 6.8 The Client is aware that the Contractor is in some cases obliged, on the basis of (inter)national legislation or (Professional) regulations, to disclose the Client's confidential information. Insofar as necessary, the Client hereby provides permission and cooperation to such disclosure, including (but not limited to) in such cases that the Contractor:
  - a) must report executed or intended unusual transactions described in legislation and (Professional) regulations, which become known to the Contractor during the execution of the Work, to the authorities appointed for this purpose by the government;
  - b) must file a (fraud) report in specific situations with an appropriate body
  - c) is obliged to conduct an investigation of the (the identity of) the Client, or the Client's client.
- 6.9 The Contractor excludes liability for loss or damage sustained by the Client due to the Contractor's compliance with the legislation and (Professional) regulations to which it is subject.
- 6.10 The Contractor safeguards proper use of personal data provided and will not use these for commercial purposes.
- 6.11 The Client and Contractor will inform the other party without delay of any breach related to personal data provided (also known as a data breach) as soon as the matter becomes known and will work together to take suitable measures for this eventuality. Parties will not report to the Dutch Data Protection Authority before the other party has been informed of the infringement and consultations have taken place between the parties.

## 7 INTELLECTUAL PROPERTY

- 7.1 The execution of the Assignment by the Contractor does not include the transfer of intellectual property rights that are vested in the Contractor. All intellectual property rights arisen during, or ensuing from, the execution of the Assignment belong to the Contractor.
- 7.2 The Client is expressly prohibited from reproducing, publishing or utilising the products which the Contractor's intellectual property rights are vested in, or as the case may be the products intellectual property rights are vested in with regard to the use of which the Contractor has acquired the rights of use. This concerns for example (but is not limited to): computer programs, system designs, working methods, advice, (model) contracts, reports, templates, macros, and other intellectual work.
- 7.3 The Client is not permitted to provide the products referred to in the second subclause to third parties without prior permission in writing from the Contractor. This does not apply in the event that the Client wishes to acquire an expert opinion regarding the execution of the Work by the Contractor. If this is

<sup>1</sup> Qconcepts is the business name of, inter alia, the following companies: Q-Concepts B.V. (CoC 17277476), Q-Concepts Interim en Advies B.V. (CoC 17277495), Q-Concepts Accountancy B.V. (CoC 17277491) and Q-Concepts Advies B.V. (CoC 54805837).

Q-Concepts Rotterdam B.V. (CoC 59107324), Q-Concepts Limburg B.V. (CoC 63871459) and Q-Concepts Arnhem B.V. (CoC 75283948). The General Terms and Conditions can be viewed at [www.qconcepts.nl](http://www.qconcepts.nl)

the case, the Client will impose the Client's obligations on the basis of this section on the third parties engaged by the Client.

## 8 FORCE MAJEURE

- 8.1 If parties cannot, or not in a timely manner, or not properly fulfil the obligations under the Agreement resulting from force majeure within the meaning of Section 75, Book 6 of the Civil Code, these obligations will be suspended until the time when parties will be able to fulfil these in the agreed manner.
- 8.2 In the event that the situation occurs as referred to in the first subclause, parties will have the right to terminate the Agreement, wholly or in part, in writing and with immediate effect, without the right to any compensation existing.
- 8.3 If at the occurrence of the force majeure situation the Contractor has already partially fulfilled the agreed obligations, the Contractor will be entitled to separately invoice the executed Work, and the Client must pay this invoice as if it concerned a separate transaction.

## 9 FEE

- 9.1 The Client agrees to pay a fee for the services of the Contractor, which fee is determined in the Order Confirmation.
- 9.2 The Work executed by the Contractor will be charged to the Client, on the basis of time spent and costs incurred, unless parties have agreed expressly otherwise such as, for example, payment of a fixed price. Payment of the fee will not be depending on the result of the Work, unless agreed otherwise in writing. The travel time and accommodation costs for the purpose of the Work will be charged separately. Travelling time and accommodation costs for the purpose of the Work will be charged separately.
- 9.3 The signature of the Client on records of hours worked or other forms of justification of hours worked or days counts as confirmation of the time spent by (an Employee of) the Contractor. If a record of hours worked is not signed by the Client, this does not release the obligation to pay remuneration, as determined above.
- 9.4 In addition to the fee, the expenses incurred by the Contractor and the invoices of third parties engaged by the Contractor will be charged to the Client.
- 9.5 The Contractor has the right to require an advance payment from the Client. Failure to make the advance payment (in a timely manner) may be a reason for the Contractor to (temporarily) suspend the Work.
- 9.6 If after the coming into effect of the Agreement, but before the Assignment is entirely executed, fees or prices are changed, the Contractor will be entitled to adjust the agreed fees -accordingly, unless expressly agreed otherwise.
- 9.7 If required by law, the turnover tax ("omzetbelasting") will be charged separately on all amounts owed by the Client to the Contractor.
- 9.8 All fees and tariffs are exclusive of VAT and other charges (possibly) imposed by government.
- 9.9 The Client confirms that it is not entitled to settlement, withholding or deduction of amounts owed to the Contractor under these general terms and conditions. The Client does not have the right to suspend any mandatory payment to the Contractor.
- 9.10 Contractor's invoices are sent digitally. The Client is deemed to agree to this, unless the Client explicitly informs the Contractor it wishes to receive a written invoice.

## 10 PAYMENT

- 10.1 Payment by the Client of the amounts owed to the Contractor must take place, without the Client having any right to any deduction, reduction, suspension, or setoff, within 15 days after the invoice date, unless agreed otherwise. Payment must be made in the currency indicated on the invoice, by way of transfer to an IBAN specified by the Contractor.
- 10.2 In the event of breach of the term referred to in 10.1, and after at least one reminder for payment within a reasonable period of time, the Client will be in default by operation of law. In this case, the Client is liable to pay statutory commercial interest over the amount payable from the date on which the sum due became claimable until the date of payment. Furthermore, the Client is liable for all costs for collection after the Client defaults, both judicial and extrajudicial. The extrajudicial costs are calculated at no less than 15% of the principal sum plus interest - with a minimum amount of €750.00 - without prejudice to the right of the Contractor to claim the actual extrajudicial costs exceeding this amount. The judicial costs comprise the entirety of the costs incurred by the Contractor (including costs for legal assistance), including those exceeding the statutory liquidation rate.
- 10.3 If the financial position or the payment record of the Client gives cause for this in the opinion of the Contractor, the Contractor will be entitled to require that the Client promptly provides (additional) security in a form to be determined by the Contractor. If the Client omits to provide the required security, the Contractor will be entitled, without prejudice to the Contractor's other rights, to immediately suspend further performance of the Agreement, and all that which the Client owes to the Contractor on whatsoever basis, will be immediately due and payable.
- 10.4 In the event of a jointly provided Assignment the Clients will be jointly and severally liable for the payment of the invoice amount and the interest and costs owed.
- 10.5 The Contractor will be entitled, after careful balancing of interests, to suspend the fulfilment of his/her obligations, including the handing over of Documents or other items to the Client or third parties, until the time that all due and payable claims against the Client have been paid in full.
- 10.6 The fifth subclause does not apply with regard to Documents of the Client which have not (yet) been processed by the Contractor.

## 11 COMPLAINTS

- 11.1 Complaints relating to the work carried out and/or the invoice amount must be submitted to the Contractor in writing within 60 days after the date the documents or information - to which the complaint refers - were sent, or within 60 days after the discovery of the defect, unless the Client can demonstrate this defect could reasonably not have been discovered sooner.
- 11.2 Complaints as referred to in subsection 1 do not defer the Client's payment obligation. Under no circumstances is the Client entitled to defer or refuse payment for other services provided by the Contractor that bear no relevance to the service relating to the complaint.
- 11.3 In the event of a complaint being validated, the Client has the choice of either modification of the invoiced fee, free of charge improvements or re-implementation of the rejected Work, or whole or partial discontinuation of the Assignment with proportional refund of the fee already paid by the Client.

## 12 DELIVERY TERM

- 12.1 If the Client is liable to make an advance payment, or if the Client is required to make information and/or materials available required for the execution, the term in which the Work should be completed will not commence before either full payment has been received by the Contractor or if the information and/or materials have been provided in full respectively. In such case, the Client and the Contractor will enter into consultation regarding a new period/date within which the Assignment must be executed.
- 12.2 As the duration of the Assignment is subject to many factors, such as the quality of the information provided by the Client and the cooperation given, the terms in which the Work should be completed must only be considered firm deadlines if agreed in writing.
- 12.3 The Agreement cannot be dissolved by the Client for reasons of delay - unless it is established that execution is permanently impossible - unless the Contractor does not in part or wholly execute the Agreement within the term reasonably agreed after the end of the original term. In this case, dissolution is permitted pursuant to Section 265, Book 6 of the Civil Code.

## 13 TERMINATION

- 13.1 An Assignment entered into for a definite period ends by operation of law after its expiry, therefore without any prior cancellation action being required, unless otherwise agreed and laid down in the Assignment Confirmation.
- 13.2 The Client and the Contractor may at any time terminate the Agreement (in the interim) with immediate effect by means of notice in writing to the other party, taking into account a reasonable notice period, unless a termination or a termination in such a way is deemed unreasonable or unfair.
- 13.3 The Agreement can be terminated (in the interim) by each party in writing without observing a notice period in the event the other party is not able to settle its debts or in case a insolvency administrator, liquidator or liquidator has been appointed, if the other party arranges debt restructuring, or ceases its activities for any reason, or if the other party considers the occurrence of any of the above reasonably plausible or if a situation has developed that justifies immediate termination in the interest of the terminating party.
- 13.4 If the Client terminates the Agreement (in the interim), the Contractor is entitled to a fee for the remaining term of the Agreement, based on the average fee charged by the Contractor to the Client during the term of the agreement, to be increased by the additional costs that the Contractor must reasonably incur as a result of the early termination of the Agreement (such as costs related to subcontracting), unless the cancellation is based on facts and circumstances that can be attributed to the Contractor.
- 13.5 If the Contractor terminates the Agreement (in the interim), the Client will have the right to cooperation from the Contractor during the transfer of Work to third parties, unless there are underlying facts and circumstances that can be attributed to the Contractor. The Contractor shall retain its claim to payment of the expense claims for Work performed up to that moment, and the provisional results of the Work performed up to that moment shall be made available to the Client. Insofar as the transfer of work incurs additional costs for the Contractor, these will be payable by the Client.

- 13.6 Upon termination of the Agreement, each of the parties must provide all goods, items and documents in their possession that are under the ownership of the other party without delay.

## 14 RIGHT OF SUSPENSION

- 14.1 The Contractor will be entitled, after careful balancing of interests, to suspend the fulfilment of his/her obligations, including the handing over of Documents or other items to the Client or third parties, until the time that all due and payable claims against the Client have been paid in full.
- 14.2 The first subclause does not apply with regard to Documents of the Client which have not (yet) been processed by the Contractor.

## 15 LIABILITY

- 15.1 The parties are mutually liable for the damage suffered by the other party as a result of an attributable shortcoming in the fulfilment of everyone's obligations under the Agreement and/or these general terms and conditions, unless these general terms and conditions or the order confirmation show otherwise.
- 15.2 Contractor will carry out its Work to the best of its ability and in doing so, will take the best possible care as can be expected of the Contractor. The Contractor will not be liable for any loss or damage on the part of the Client which arises due to the fact that the Client has provided no, inaccurate or incomplete information and Documents to the Contractor, or due to the fact that these have not been provided in a timely manner. This also includes the situation in which the Contractor is unable to file the annual report and accounts with the Chamber of Commerce within the statutory period as a result of acts or omissions (on the part) of the Client.
- 15.3 The Contractor will not be liable for any indirect loss or damage, such as: lost profit, lost savings, loss due to business interruption and any other consequential loss, or indirect loss or damage, which is the result of no, or not in a timely manner, or unsatisfactory, performance by the Contractor.
- 15.4 The liability on the part of the Contractor is limited to compensation of direct loss or damage that is the direct result of (a connected series of) attributable shortcoming(s) in the fulfilment of its obligations pursuant to the Assignment. Direct loss or damage is - inter alia - taken to mean: the reasonable costs incurred to establish the cause and extent of the damage; the reasonable costs incurred to ensure that the Contractor's performance complies with the Agreement, and the reasonable costs incurred for the prevention and limitation of the damage.
- 15.5 If the Client demonstrates that they have suffered direct damage through an error by the Contractor which could have been avoided in case of due care, the Contractor is liable for this damage up to a maximum of one of the amounts as stipulated in subsection a, b and c in this section, unless there was deliberate intent from the Client or similar gross negligence, and unless any mandatory (inter)national law or regulation does not allow such a limitation. This liability is:  
sub a: limited for Audit Assignments to a maximum of three times the fee for the Work executed in the context of the Audit Assignment concerned until the time of the occurrence of the attributable failure(s). If the execution of the Audit Assignment covers a period of more than 12 months, the amount referred to above will be set at three times the fee for the Work executed in the context of the Assignment concerned during the last 12 months;  
sub b: limited for all Services other than audit of financial statements to a maximum of once the fee for the Work executed in the context of the Service other than audit of financial statements concerned until the time of the occurrence of the attributable failure(s). If the execution of the Service other than audit of financial statements covers a period of more than six months, the amount referred to above will be set at once the fee for the Work executed in the context of the Services other than audit of financial statements during the last six months.  
sub c: In none of these cases will the total compensation of the damage on the grounds of this section amount to more than € 100,000.00 per attributable failure(s), unless the parties - given the scope of the Assignment or the risks associated with the Assignment - see reason to deviate from this maximum amount when entering the agreement or unless the amount which, according to the Contractor's liability insurer, is actually payable for the case concerned, plus any policy excess for the Contractor under the terms of the insurance is higher.
- 15.6 The total liability for direct damage, insofar as not limited to amounts specified in section 5 of this article, is also limited to the amount which, according to the Contractor's liability insurer, is actually payable for the case concerned, plus any policy excess for the Contractor under the terms of the insurance. If, for whatsoever reason, the liability insurer does not pay out, the liability of the Contractor will be limited to the amount as referred to in section 5 sub a, sub b or sub c of this article.
- 15.7 The Client indemnifies the Contractor against any claims by third parties on account of loss or damage caused due to the fact that the Client has not provided Documents or inaccurate or incomplete Documents to the Contractor, unless the Client demonstrates that the damage does not bear relevance to attributable actions or negligence that can be attributed or is caused by intent or similar gross negligence by the Contractor and unless any mandatory (inter)national laws or regulations do not allow such a provision.
- 15.8 The Contractor is only liable to the Client for damage resulting from a (connected series of) attributable shortcoming(s) in the execution of the Assignment. A connected series of attributable shortcomings will apply as one (1) attributable shortcoming.
- 15.9 The liability limitations stipulated in section 5, subsection a, b and c and section 6 also apply to third parties engaged by the Contractor for the execution of the Assignment, who can therefore directly rely upon this liability limitation.
- 15.10 Unless expressly stipulated in the Engagement letter, the Contractor will not provide investment recommendations, which also means that expression by the Contractor for the benefit of any organisation cannot be taken to signify investment advice.
- 15.11 The Client is obliged to take damage-limiting measures. The Contractor has the right to remedy or limit loss or damage by means of repairing or improving the executed Work.
- 15.12 The Client will indemnify and maintain this indemnification in respect of costs (including legal costs), claims that arise directly or indirectly for the Contractor as a result of or in connection with an Assignment, including (without limitation) as a result of a violation of agreements made between parties by the Client (or its employees, subcontractors or agents) and/or a violation by the Client or one of its employees or agents of applicable legal provisions (including, without limitation, legal provisions prohibiting or restricting discrimination or inequality of opportunities, immigration legislation, working conditions and/or working time legislation).
- 15.13 The provisions of subclauses 1 up to and including 16 of this section relate to the contractual as well as the non-contractual liability of the Contractor to the Client.

## 16 TRANSFER OF CONTRACTS

- 16.1 The Client is not permitted to transfer (any obligation from) the Agreement to third parties, unless the Client provides explicit permission. The Contractor is entitled to attach conditions to this permission. The Client undertakes in any case to then impose all applicable relevant (payment) obligations for the Agreement in these general terms and conditions on the third party. The Client, as well as this third party, remains liable for the obligations from the Agreement and the General Terms and Conditions at all times, unless explicitly agreed otherwise by both parties.
- 16.2 In the event of contract transfer, the Client indemnifies the Contractor against any claims by third parties arising on account of non-compliance or incorrect compliance by the Client with any obligation in the Agreement and/or these general terms and conditions, unless any mandatory (inter)national laws or regulations do not allow such a provision.

## 17 INDEPENDENCE

- The Contractor must comply with all relevant independence regulations by national and international regulators. In order to enable the Contractor to comply with the relevant independence regulations, the Client is obliged to inform the Contractor in a timely, correct and complete manner about the legal structure and the control structure of (the group to which) the Client (belongs), all financial and other interests and stakes of the Client, as well as all other (financial) partnerships relating to its enterprise or organisation, all in the broadest sense of the word.

## 18 ELECTRONIC COMMUNICATION AND ELECTRONIC FILING OF THE ANNUAL REPORT AND ACCOUNTS

- 18.1 During the execution of the Assignment, Parties can communicate with each other by means of electronic resources and/or make use of electronic storage (such as Cloud applications). Unless agreed otherwise in writing, parties may assume that the sending of correctly addressed fax messages, emails (including emails sent through the internet) and voicemail messages, regardless of whether these contain confidential information or Documents related to the Assignment, will be mutually accepted. The same applies to other means of communication used or accepted by the other party.
- 18.2 The Client and the Contractor will not be liable towards each other for loss or damage that might ensue for one or both of them, resulting from the use of electronic means of communication, networks, applications, electronic storage, or other systems, including - but not limited to - loss or damage resulting from non-delivery or delay of delivery of electronic communication, omissions, distortion, interception, or manipulation of electronic communication by third parties or by software/equipment used for sending, receiving or processing of electronic communication, transmission of viruses and the not, or not properly, functioning of the telecommunication network or other resources required for electronic communication, except to the extent that the loss or damage is the result of intent or gross negligence. The above also applies to the use that the Contractor makes thereof in its contact with third parties.

- 18.3 In addition to the previous subclause the Contractor does not accept any liability for any loss or damage arisen due to or related to the electronic sending of (electronic) annual report and accounts and the digital filing thereof with the Chamber of Commerce.
- 18.4 Parties will do or omit all that can reasonably be expected from each of them to prevent the occurrence of aforesaid risks.
- 18.5 The data extracts from the sender's computer system will provide conclusive evidence of (the contents of) the electronic communication sent by the sender until proof to the contrary has been provided by the recipient.
- 18.6 The provisions of section 11 apply accordingly.

#### 19 EXPIRY PERIOD

Insofar as these General Terms and Conditions do not determine otherwise, rights of claim and other entitlements of the Client on whatsoever basis against the Contractor related to the execution of Work by the Contractor will lapse, in any event after one year from the time when the Client knew about or reasonably could have known about the existence of these rights and entitlements. This period does not concern the possibility to submit a complaint to the authority (authorities) designated for the complaint handling and/or the Disputes Board ("Raad voor Geschillen").

#### 20 RIGHTS WAIVER

The indirect enforcement of any right or authority of the Contractor will not affect or limit the rights and authorities of the Contractor under this Agreement. A waiver of rights for any provision or condition in the Agreement will only be valid if this has been rendered in writing.

#### 21 CONVERSION

If and to the extent any stipulation of the Agreement cannot be relied upon on the basis of reasonableness or fairness or because of its onerous character, said stipulation shall be given a corresponding meaning in terms of content and tenor to the extent possible, in such manner that it can be relied upon after all.

#### 22 LEGACY

The provisions of this Agreement that, expressly or implied, are intended to survive the termination of this Agreement, will remain in force and continue to bind the parties henceforth.

#### 23 AMENDMENT CLAUSE

The contractor reserves the right to amend the present general terms and conditions (unilaterally). The most current version of the Contractor's general terms and conditions will always apply to offers, assignments and/or agreements and can be consulted on the Contractor's website.

#### 24 NON-SOLICITATION PROVISION

Both parties are not permitted to employ any staff member or enter into any other agreement relating to the provision of services with any staff member from the other party involved or having been involved in the execution of the Assignment during the execution of the Assignment and within 12 months after completion of the Assignment, nor negotiate employment/collaboration with these staff members other than in consultation with the other party. The party that does employ (a) staff member(s) from the other party is liable to pay at least the recruitment costs required by the other party for the purpose of recruit (a) replacement employee(s).

#### 25 APPLICABLE LAW AND COICE OF FORUM

- 25.1 All Agreements between the Parties are governed by Dutch law.
- 25.2 Unless the Parties explicitly agree otherwise in writing, all disputes relating to the Agreements between Parties, will be resolved by the competent court in the district in which the Contractor is established.
- 25.3 The provisions of subclauses 1 and 2 of this article will not affect the possibility on the part of the Client to submit a dispute to the Disputes Board and/or to submit a complaint to the Contractor personally, the Accountancy Division (disciplinary law) or the Complaints Committee (right of complaint).

#### 26 REPAIR CLAUSE

- 26.1 If any provisions of these General Terms and Conditions or of the underlying Assignment/Agreement might be wholly or in part null and void and/or invalid and/or unenforceable as a result of any statutory regulation, judicial decision, or otherwise, this will have no consequences whatsoever for the validity of all other provisions of these general terms and conditions or the underlying Assignment/Agreement.
- 26.2 If any provision in the Assignment or any part of the Assignment cannot be relied on in law, the remaining part of the Assignment will remain in full force, always provided that provisions in the part which cannot be relied on will be deemed to have been adjusted in such a manner that reliance thereon will be possible, whereby the intention of parties with regard to the original provision or original part will remain in existence as much as possible.
- 26.3 A refusal by the Contractor to enforce one or more of the agreements made at any time is not deemed to constitute a waiver of these rights or the right to enforce these general terms and conditions.
- 26.4 These general terms and conditions have been drawn up in Dutch as well as the English language. In the event of a difference or conflict between the English and the Dutch text, the Dutch text will be binding.