

# General Terms & Conditions of Eurogate-International

## 1 Applicability

These General Terms and Conditions are applicable to any provision of services to the Client by the Contractor, except where provided otherwise in the Engagement Letter.

## 2 CONCLUSION OF THE CONTRACT

2.1 The Contract consists of these General Terms and Conditions and the Engagement Letter and is concluded as soon as the Contractor has received the Engagement Letter duly signed by the Client and the Contractor. As long as the Contractor is not in possession of the Engagement Letter, it reserves the right to deploy its staff elsewhere. The Engagement Letter is based on the information provided by the Client to the Contractor at the time the Engagement Letter was drafted. The Engagement Letter is deemed to be a correct and complete representation of the Contract.

2.2 If the engagement was commissioned orally or the Contractor has not yet received the signed Engagement Letter, the Contract is deemed to have been concluded under these General Terms and Conditions as soon as the Contractor has initiated the Contract at the Client's request.

2.3 The Contract supersedes and replaces any previous proposals, correspondence, agreements or other communications, whether orally or in writing.

2.4 The Contract is concluded for an indefinite period unless its contents, nature or effect imply that it was concluded for a definite period.

## 3 COOPERATION BY THE CLIENT

3.1 The Client undertakes to provide the Contractor with all information and documents which the latter believes to be required for the timely and proper execution of the Contract, and to do so on time and in the desired form and manner.

3.2 The Client undertakes to inform the Contractor without delay of any facts and circumstances that might be relevant to the proper execution of the Contract.

3.3 Unless the nature of the Contract dictates otherwise, the Client is responsible for the accuracy, completeness and reliability of the information and documentation provided to the Contractor, even if they originate with or are acquired from third parties.

3.4 The Client undertakes to provide the Contractor with office space and any other facilities which the Contractor deems necessary or useful for the execution of the Contract. These facilities meet the relevant statutory requirements and include the use of computer, telephone and fax facilities. As far as computer facilities are concerned, the Client undertakes to ensure continuity by providing adequate back-up, security and virus-checking procedures, among other things. The Contractor will follow virus-checking procedures if it makes use of the facilities made available by the Client.

## 4 EXECUTION OF THE ENGAGEMENT

4.1 Unless expressly stipulated otherwise, the Contractor will carry out all activities to the best of its knowledge and ability and in accordance with professional standards.

4.2 The Contractor determines the manner in which the Contract will be executed and by whom, with due observance of the wishes expressed by the Client where possible. If the name or names of a staff member or staff members are explicitly mentioned in the Engagement Letter, the Contractor will make an effort to ensure that the staff member or staff members in question is/are available for carrying out the work for the duration of the Contract. Despite this fact, the Contractor has the right to replace this staff member or these staff members in consultation with the Client.

4.3 The Contractor cannot carry out any activities in addition to those commissioned and bill these to the Client until the Client has given its prior consent. However, if the Contractor is required to perform such additional activities by virtue of its statutory obligation to provide reliable services, it is entitled to bill these to the Client, even if the Client did not explicitly give its prior consent to the performance of additional activities.

4.4 The Client cannot involve third parties in the execution of the Contract unless it has reached agreement with the Contractor about such involvement. This provision applies as outside involvement in a Contract, whether directly or indirectly, may significantly affect the Contractor's opportunities for the proper execution of the Contract. The provisions of the preceding sentence apply to the Contractor *mutatis mutandis*.

4.5 The Contractor keeps working papers in relation to the Contract. This file, which contains copies of relevant documents, is the property of the Contractor.

## 5 CONFIDENTIALLY

5.1 Except where a statutory provision, regulation or other professional obligation to disclose information is in effect, the Contractor and its staff undertake to maintain confidentiality vis-à-vis third parties in respect of confidential information acquired from the Client. The Client may discharge the Contractor and its staff from this obligation.

5.2 The Contractor cannot use the information provided by the Client for any purpose other than for which it was obtained without the Client's written consent. By way of exception, this provision does not apply if the Contractor represents itself in disciplinary, civil or criminal proceedings in which this information may be relevant.

5.3 Except where a statutory provision, regulation, or other professional obligation to disclose information is in effect, or the Contractor has given its prior written consent to do so, the Client will not disclose to third parties the contents of reports, opinions or any other written or oral statements issued by the Contractor.

5.4 The Contractor and the Client will impose their obligations under this Article on any of its outside contractors.

5.5 The Contractor has the right to refer its clients and potential clients in general terms to the activities performed, provided that this only serves as a description of the Contractor's experience. This is not deemed contrary to the provisions of paragraphs 1 and 2 above.

## 6 INTELLECTUAL PROPERTY

6.1 The Contractor reserves all intellectual property rights in relation to products of the intellect it uses or has used and/or develops or has developed within the framework of the execution of the engagement, the copyrights or other intellectual property rights to which it holds or can exercise.

6.2 The Client is explicitly prohibited from reproducing, publishing or using for commercial purposes, whether alone or involving third parties, those products, including computer programs, systems designs, working methods, opinions, contracts and model contracts and other products of the intellect, all in the broadest sense of the word. These products cannot be reproduced and/or published and/or used for commercial purposes unless the Contractor has given its written consent. The Client has the right to reproduce the written documents for use within its own organization where this is in line with the purpose of the engagement.

6.3 If, in respect of a management consultancy Contract, a specific deliverable product of the intellect is termed "Client Material" in the Engagement Letter, the Client acquires the intellectual property right to this product, on the condition that the Client grant the Contractor a nonexclusive, world-wide and continuous right to use, copy, adapt, change, sub-license and/or market this product free of duties.

## 7 FEE

7.1 If pricing factors, such as salaries and/or rates are subject to change between the conclusion date of the Contract and the completion date of the Contract, the Contractor has the right to adjust the agreed fee accordingly.

7.2 The fee charged by the Contractor is exclusive of out-of-pocket expenses and expense claims filed by third parties commissioned by the Contractor.

7.3 All fees are exclusive of turnover tax and other government levies, if any.

## 8 PAYMENT

8.1 The Client is required to pay the fee charged without any deduction, discount or debt settlement no later than 15 days after the invoice date. Payments, which must be denominated in the currency indicated in the invoice, must be made by means of money transfer to a bank account designated by the Contractor. Objections to the amounts charged do not exempt the Client from its obligation to pay.

8.2 If the Client fails to pay within the period referred to in 8.1 above, it is in default by operation of law after having been reminded by the Contractor at least once that payment is due within a reasonable period. In that case, the Client is liable to pay statutory interest on the credit balance with effect from the date on which the payment became due until the date of payment. In addition, all collection costs incurred after the Client's default, both judicial and extrajudicial, are for the Client's account. The extrajudicial costs are set at at least 15% of the principal plus interest, without prejudice to the Contractor's right to collect the actual extrajudicial costs in excess of this amount. The judicial costs comprise all costs incurred by the Contractor, even if they exceed the statutory rate.

8.3 If the Contractor believes that the Client's financial position and/or payment performance justifies such action, the Contractor has the right to demand that the Client immediately furnish security or additional security in a form to be determined by the Contractor and/or make an advance payment. If the Client fails to furnish the desired security, the Contractor has the right without prejudice to its other rights, to immediately suspend the further execution of the Contract, and that which the Client owes to the Contractor for whatever reason will become immediately due and payable.

8.4 If the event of a jointly commissioned engagement the Clients have assumed joint and several liability for payment of the full invoice amount where the activities were performed for the Clients jointly.

## 9 CLAIMS

9.1 Claims with regard to the executed activities and/or the invoice amount will have to be presented to Contractor in writing within 60 days after date of shipment of the documents or information about which Principal complains, or within 60 days after discovery of the default, if Principal can prove that he was in all reason not in the position to discover the default earlier.

9.2 Principal has, on account of a claim with view to certain service, in no way the right to postpone payment or to refuse payment of other service supplied by contractor to which the claim is not related.

9.3 In case of a rightly presented claim, the Principal has the choice between adaption of the charged fee, free improvement, to execute again the disapproved activities or not to execute (or not to execute anymore) the order partially or completely against restitution in proportion to the fee already paid by Principal.

## 10 DELIVERY PERIOD

10.1 If the Client is required to make an advance payment or to make information and/or materials available for the purposes of executing the Contract, then the term taken for completion of the work will not take effect until the Contractor receives the payment in full or until all information and/or materials have been made available to the Contractor respectively.

10.2 As the duration of the Contract is subject to many factors, such as the quality of the information provided by the Client and the cooperation extended, the due dates for completion of the work should be regarded as deadlines only where this has been agreed in writing.

10.3 Unless execution of the Contract proves to be prematurely impossible, the Client cannot terminate the Contract on account of overdue performance, unless the Contractor does not perform the Contract, either partially or in full, within a reasonable period of which it was notified in writing after expiry of the agreed delivery period.

## 11 TERMINATION

11.1 Unless the requirements of reasonableness and fairness dictate otherwise, the Client and the Contractor have the right to terminate the Contract, whether prematurely or not, in writing at any time with due observance of a reasonable notice period.

11.2 Either party may terminate the Contract, whether prematurely or not, in writing without due observance of a notice period if the opposite party fails to pay its debts or if a bankruptcy trustee, administrator or liquidator has been appointed, the opposite party is subject to debt rescheduling, or ceases its operations for any other reason or if the opposite party considers it to be likely, within reason, that one of the above circumstances will apply to the opposite party or if a situation has arisen that justifies immediate termination in the interest of the party terminating the Contract.

11.3 If the Client decides to terminate the Contract, whether prematurely or not, the Contractor is entitled to compensation for its resulting underutilization for which there is prima facie evidence, as well as for additional costs that must reasonably be incurred as a result of the premature termination of the Contract, e.g. costs in relation to subcontracting, unless the termination was motivated by facts and circumstances that can be attributed to the Contractor. If the Contractor terminates the Contract, whether prematurely or not, the Client is entitled to assistance from the Contractor in transferring the work to third parties, unless the termination was motivated by facts and circumstances that can be attributed to the Client or which are in conflict with this right. In all cases of termination, whether premature or not, the Contractor retains the right to payment of the expense claims for the work carried out up to then, in which process the preliminary results of the work carried out up to then will be made available to the Client under the usual reserves. Any additional costs relating to the transfer of the work will be charged to the Client.

11.4 If the Contract is terminated, both parties will immediately make available to the opposite party all goods, objects and documents belonging to the opposite party that it has in its possession.

## 12 LIABILITY

12.1 The Contractor will carry out its work to the best of its ability, while exercising the due care that may be expected of a Contractor. If an error is made as a result of the Client providing incorrect or incomplete information, the Contractor is not liable for any resulting loss. If the Client proves that it has suffered a loss due to an error by the Contractor that could have been prevented if proper care had been taken, the Contractor is liable for that loss up to an amount as provided in subparagraphs a, b, c, d and e below, provided that the Contractor can be held liable for an intentional act or omission, or intentional recklessness.

sub a

If the Contractor carries out an Interim Management Contract, its liability is limited to the fee received within the scope of the Contract for the last three months.

sub b

If the Contractor carries out a management consultancy or other consulting Contract, its liability is limited to the fee received within the scope of the Contract. If the Contractor carries

out a management consultancy or other consulting Contract which runs for more than six months, its liability is limited to the fee received within the scope of the Contract for the last six months.

Sub c

If the Contractor carries out a Contract for payroll processing, administrative secondment, outsourcing or compliance procedures, its liability is limited to the fee received within the scope of the Contract. If the Contractor carries out a Contract which runs for more than six months, its liability is limited to the fee received within the scope of the Contract for the last six months. 12.2 The Client indemnifies the Contractor against third-party claims for losses incurred as a result of the Client supplying incorrect or incomplete information to the Contractor, unless the Client proves that the loss does not relate to imputable faults or negligence on its part or was caused by an intentional act or omission, or similar intentional recklessness on the part of the Contractor. This provision does not apply to audit engagements as referred to in Article 2:393 of the Netherlands Civil Code.

12.3 The limitation of liability laid down in paragraph 1, subparagraphs a, b and c above also applies to third parties commissioned by the Contractor to execute the Contract.

12.4 Unless stipulated explicitly in the Engagement Letter, the Contractor will not (i) carry out work relating to the transition to or introduction of the Economic Monetary Union (EMU) or to other aspects of the EMU, including, but not limited to, the transition to or the introduction of the euro; and (ii) provide investment advisory services, i.e. the Contractor's opinion about any organization cannot be considered as investment advisory services.

## 13 ASSIGNMENT/INDEMNIFICATION

13.1 Unless the Contractor has given its express consent, the Client is not permitted to assign any obligation laid down in this Contract to third parties. The Contractor is entitled to attach conditions to its consent. The Client undertakes in any case to impose all relevant payment obligations laid down in the Contract on the third party. Unless Client and Contractor explicitly agree otherwise, the Client, in addition to the third party, will continue to be liable for the obligations laid down in the Contract and the General Terms and Conditions.

13.2 The Client indemnifies the Contractor against all third-party claims arising from the Client's non-performance or incorrect performance of any obligation laid down in the Contract and/or these General Terms and Conditions.

#### 14 INDEPENDENCE

The Contractor undertakes to comply with the relevant independence guidelines dictated by national and international regulators at all times in order to allow the Contractor to comply with the relevant independence guidelines, the Client undertakes to inform the Contractor timely, correctly and completely of the legal and control structure of the Client's business or the group to which the Client belongs, all its financial and other interests and participations, as well as all its other alliances, financial or otherwise, in the broadest sense of the word.

#### 15 USE OF THE INTERNET

During the execution of the Contract, the Client and the Contractor will be able to communicate via electronic mail at either party's request. Both the Client and the Contractor recognize the risks associated with electronic mail, including, but not limited to, distortion, delays and viruses. The Client and the Contractor hereby declare that they will not hold each other liable for any losses incurred by either of them as a result of the use of electronic mail. Both the Client and the Contractor will do or not do all that can reasonably be expected from them to avoid such risks. If the Client or Contractor is in doubt as to the correctness of a mail message they have received, then the contents of the message originating with the sender is decisive.

#### 16 TERM OF FORFEITURE

Except where otherwise provided in the Contract, rights of action and other powers enjoyed by the Client for whatever reason vis-à-vis the Contractor will lapse in any event one year after an occurrence leading to the Client's entitlement to invoke these rights vis-à-vis the

Contractor.

#### 17 RENUNCIATION OF RIGHTS

The rights or powers enjoyed by the Contractor under this Contract will not be affected or limited by the Contractor's failure to directly enforce any rights or powers. Any right or authority laid down in or ensuing from any provision or condition of this Contract can only be renounced in writing.

#### 18 CONVERSION

If and to the extent that, in all reasonableness and fairness or by virtue of its unreasonably onerous nature, any of the provisions of the Contract cannot be invoked, the provision in question will in any event be accorded a meaning corresponding as closely as possible to the original contents and tenor so that this provision can nevertheless be invoked.

#### 19 SUBSEQUENT EFFECT

The provisions of this Act, which are intended, either expressly or tacitly, to remain in effect even after termination of this contract, will remain in effect after the Contract has been terminated and continue to bind both parties.

#### 20 CONTRADICTIONARY CLAUSES

If these General Terms and Conditions and the Engagement Letter contain conflicting conditions, the conditions contained in the Engagement Letter will prevail.

21 STAFF TRANSFERS Neither party will during the execution of the Contract and within one year of termination of the Contract, employ persons who are or were involved in the execution of the Contract on behalf of the opposite party or conduct negotiations with these persons about employment, other than in consultation with the opposite party. The party that employs one or more persons who were involved in the execution of the Contract on behalf of the opposite party despite the restriction referred to above, undertakes to pay to the opposite party at least the recruitment costs incurred by that party for the purposes of recruiting one or more replacements.

#### 22 APPLICABLE LAW AND JURISDICTION

22.1 All Contracts between the Client and the Contractor are governed by the laws of the Netherlands.

22.2 Unless the parties expressly agree otherwise in writing, all disputes between the Client and the Contractor relating to this Contract will be referred to the competent District Court of Zwolle.

#### 23 MODIFICATION AND LOCATION OF THE CONDITIONS

23.1 These terms and conditions have been deposited at the office of the Chamber of Commerce in Zwolle.

23.2 The last deposited version or the version as applicable on the moment of the conclusion of the contract always applies.