

# General Terms and Conditions

## JAN© Fusies en Overnames

### General

**In these general terms and conditions, the following definitions apply:**

- Client: the natural person or legal entity assigning the Contractor to perform activities or provide services or items or for or to whom or which JAN© performs activities or provides items or services on any other basis.
- Contractor: JAN© Fusies en Overnames B.V.. and all of its group companies or any other affiliated company that has declared these terms and conditions applicable.
- Activities: all activities, services or goods provided or to be provided by the Contractor, on the basis of a contract or otherwise.
- Records: all items, including documents or data carriers, made available by the Client to the Contractor, and all items, including written documents, electronic documents and files or data carriers, created by the Contractor within the context of performance of the contract.
- Contract: every arrangement agreed between the Client and the Contractor for activities to be performed by the Contractor on behalf of the Client, in accordance with the provisions of the order confirmation.
- Software: software to be made available to the Client by or on behalf of the Contractor.
- Or: and/or.

### 1 Applicability

- 1.1 These general terms and conditions apply to all offers, tenders, orders, legal relationships, all other communication from JAN© and contracts, regardless of their name, with which the Contractor undertakes / will undertake to perform activities for the Client, as well as to all ensuing activities to be performed by the Contractor.
- 1.2 Deviations from and supplements to these general terms and conditions shall only be valid if explicitly agreed in writing, for example in a written contract or order confirmation.
- 1.3 If these general terms and conditions and the order confirmation contain conflicting terms and conditions, the terms and conditions of the order confirmation shall apply.
- 1.4 The applicability of the Client's general terms and conditions is explicitly rejected by the Contractor.

- 1.5 Where relevant, with the exclusion of Book 7, Articles 404 and 407(2) of the Dutch Civil Code, all contracts are established with the Contractor. This shall also apply if it is the Client's explicit or implicit intention to have certain activities performed by a certain person.

## **2 Commencement and duration of the contract**

- 2.1 Each contract shall only be established and commences when the order confirmation signed by the Client is received by the Contractor or when the Contractor commences its activities. The Contractor shall never be obligated to perform prior to receiving a signed order confirmation.
- 2.2 The confirmation is based on the information supplied by the Client to the Contractor at the time of the confirmation. The Contractor has no obligation to investigate that information.
- 2.3 The parties are free to prove the establishment of the contract by other means.
- 2.4 Every contract is established on an open-ended basis unless it ensues from the nature, content or purport of the assignment that it has been established for a certain period or with a view to certain activities.

## **3 Client data**

- 3.1 The Client shall make available to the Contractor all information and documents the Contractor believes to be required for the proper performance of the contract, and shall do so in good time and in the desired form and manner.
- 3.2 The Contractor is entitled to suspend performance of the contract until the Client has satisfied the obligation stated in the previous paragraph.
- 3.3 The Client shall immediately inform the Contractor of any facts and circumstances that could be relevant to the performance of the contract.
- 3.4 The Client guarantees the correctness, completeness and reliability of the data and records made available to the Contractor by or on behalf of the Client, including those originating from third parties.
- 3.5 Additional costs and fees caused by the failure to provide the desired data, or the failure to do so in good time or properly, shall be borne by the Client.
- 3.6 If and to the extent that the Client so requests, the relevant records will be returned to the Client, subject to the provisions under Q.

## 4 Fulfillment of the assignment

- 4.1 The Contractor shall determine the manner in which and by whom the assignment will be performed. If possible, the Contractor will take into account any sound instructions issued on time by the Client regarding the performance of the contract.
- 4.2 The Contractor shall perform the activities to the best of its ability and as a professional acting with due care. Nevertheless, the Contractor cannot guarantee that any intended result will be achieved.
- 4.3 The Contractor shall be entitled to have certain activities performed by an individual or third party to be designated by the Contractor, without notification to or explicit permission from the Client, if the Contractor believes such desirable.
- 4.4 The Contractor shall perform the contract in accordance with the applicable rules of professional conduct and practice, which are part of the contract, and pursuant to its legal obligations. A copy of the rules of professional conduct and practice applicable to the Contractor will be provided at the Client's request. The Client shall respect the obligations of the Contractor or parties employed by or on behalf of the Contractor ensuing from these rules of professional conduct and practice and the law.
- 4.5 If activities are performed within the duration of the contract on behalf of the Client that are not included in the activities related to the contract, such activities shall be considered to have been performed based on separate contracts.
- 4.6 Any periods fixed in the contract within which activities are to be performed shall apply only as approximate and not as deadlines. Exceeding such a period shall therefore not constitute an attributable failure and thus shall not constitute grounds for termination of the contract. Periods within which the activities are to be completed shall only be considered deadlines if such is explicitly and literally agreed between the Client and the Contractor.
- 4.7 Unless a deadline applies, the Contractor shall only attributable fail if a reasonable period to satisfy the relevant obligation as yet is given in writing (by registered post). The reasonable period shall be at least thirty days. The Client shall be entitled to apply a shorter reasonable period only if statutory due dates require performance before that period has lapsed.
- 4.8 Unless explicitly stated otherwise in writing, performance of the contract is not specifically aimed at discovering fraud. If the activities render indications of fraud, the Contractor shall report these to the Client. In that respect the Contractor must comply with the applicable laws and regulations and the regulations and directives issued by the various professional organisations.
- 4.9 The Client shall always ensure that information is provided in copy. The Client shall ensure that a back-up is made of all information processed using the Contractor's software. The Contractor shall only be required to provide back-ups or fall-back systems if such is explicitly agreed.

4.10 The Contractor can make performance of the contract and the manner in which it is performed dependent on written permission from a third party that imposes certain conditions on the use of the relevant software, data or other materials.

## **5 Special provisions regarding data processing by means of software**

5.1 The provisions in this article apply along with the other provisions of these general terms and conditions. The provisions of this article pertain to the Contractor making software available and supplying services using software.

5.2 In satisfying its obligations, the Contractor will use goods and services from third parties.

5.3 The Client shall ensure that its own systems and means of telecommunication satisfy at least the minimum requirements for using and accessing the software.

5.4 The Client shall ensure that the software is properly configured and used.

5.5 The Client shall adequately instruct the legitimate users of the software.

5.6 Unless specifically agreed, any contract in which software is made available shall not constitute an assignment for the Contractor to convert data.

5.7 Unless specific well-defined service levels have been agreed, the Contractor does not guarantee the timeliness of responses to questions submitted by or on behalf of the Client if the Contractor provides help desk services or other user support. The Contractor does not guarantee the correctness of such responses.

5.8 The Contractor shall be entitled to interrupt the availability of the software at any time if the software requires maintenance. To the extent possible, the Contractor shall give notice of such interruptions and take the Client's interests into account when scheduling these.

5.9 If it has been agreed that the software will be available for at least a certain part of the time, the period in which the software is unavailable due to scheduled maintenance will not be taken into account in determining that part of the time.

5.10 If the contract does not provide for compensation for loss caused by failing to achieve the part of the time referred to in the previous paragraph, the loss to be compensated by the Contractor in that respect shall at most amount to the percentage that the software is less available in a month than agreed times the sum due from the Client in that month for the availability of the software.

5.11 The Contractor shall be entitled to modify the software and the systems with which it is made available at all times. If such modifications result in more than insignificant changes in the Client's work methods and systems, the Client shall be entitled to terminate the contract prematurely without liability. In any event, modifications to the Client's settings shall constitute an insignificant change.

- 5.12 The Contractor does not guarantee that the software is free of errors and will function without interruption, nor that the software is suitable for the purpose for which the Client wants to use it. The Contractor does not guarantee that defects in the software will be remedied. Without prejudice to the previous paragraph, the Contractor shall attempt to convince the software suppliers to remedy any defects as quickly as possible. The Contractor shall be entitled to apply to the software at any time any temporary solutions proposed by these suppliers or software bypasses or restrictions in order to avoid problems.
- 5.13 Small defects in the software that affect the functionality but do not prevent it shall never constitute default by the Contractor.
- 5.14 The Contractor does not guarantee that the software will be modified in due time in accordance with relevant changes in laws or regulations, and shall not be in default when such modifications are not made.
- 5.15 The Client bears responsibility for use of the software. The Contractor explicitly bears no responsibility for checking the correctness and completeness of the results of the provision of service and the data generated using the service and software. The Client shall regularly check the results of the provision of service and the data generated using the service and software.
- 5.16 If and to the extent necessary or desired, if shortcomings in the results from the software are directly caused by products, software, data carriers, procedures or operations for which the Contractor explicitly bears responsibility pursuant to the contract, the Contractor shall repeat the activities it has performed in order to remedy these shortcomings, providing the Client has notified the Contractor of those shortcomings in writing and in detail as quickly as possible, yet within one week after receiving the results. The repetition shall only be free of charge if the shortcomings are attributable to the Contractor. If shortcomings cannot be attributed to the Contractor or are caused by errors or shortcomings on the part of the Client, such as supplying incorrect or incomplete data or information, the Contractor shall charge the Client for the costs of any repetitions at the normal rates. If the Contractor deems the remedy of shortcomings attributable to the Contractor technically or reasonably unfeasible, the Contractor shall credit the Client for the relevant sums due with no other liability vis-à-vis the Client. The Client shall derive no other rights from shortcomings than those described in these guarantee provisions.
- 5.17 The Client shall keep confidential any log-in codes made available to it and shall only make these available within its organisation to the individuals who work with the software. The Client shall strictly obey any and all security instructions. The Client shall be liable for any use of the codes it uses, irrespective of whether the codes were provided by the Contractor or generated by the Client.

- 5.18 If the Contractor deems use of the software by the Client to be contrary to the laws or self-regulation arrangements or the rights of third parties, the Contractor shall be entitled to temporarily or permanently and fully or partially terminate access to the software. In that event, the Client shall not be entitled to any compensation for loss, including if it is determined at law that the use at issue was lawful.
- 5.19 If use of the software is limited to a number of users, the Client shall not exceed that number.
- 5.20 The Client acquires the non-exclusive right to use the software solely within its own organisation for its own purposes in the manner provided in the contract. The Client shall not allow third parties access to the software. This restriction does not apply to third parties performing activities by order of the Client that fall within the Client's rights of use providing the Client ensures that such third parties are familiar with and bound by the restrictions of use in and confidentiality provisions of these general terms and conditions.
- 5.21 Unless explicitly agreed in writing, the Contractor shall never be required to supply to the Client a physical carrier with the software to be made available to the Client within the context of the contract or the software to be used by the Contractor within the context of the contract.
- 5.22 In the event of use outside the rights of use assigned to the Client, the Client shall pay to the Contractor a sum that is equal to three times the annual fee for use of the software, without prejudice to other rights of the Contractor. Those other rights include the right to claim complete compensation for loss suffered by the Contractor from the Client and the right to demand satisfaction of the Client's obligations. The Client shall also pay all of the legal costs reasonably incurred by the Contractor, even if these exceed the costs of proceedings that could be claimed at law by the Contractor without this provision.

## **6 Confidentiality and exclusivity**

- 6.1 The Contractor is bound to confidentiality with regard to third parties not involved in the performance of the contract. This confidentiality involves all information of a confidential nature made available to the Contractor by the Client and the results acquired from processing that information. This confidentiality shall not apply to the extent required by the law or professional rules, including but not limited to the disclosure required by virtue of the Act on the Prevention of Money-Laundering and Financing of Terrorism and other national or international regulations to the same effect that place a disclosure obligation on the Contractor, or to the extent that the Client has released the Contractor from its duty of confidentiality. This provision shall not prevent confidential consultation with colleagues within the Contractor's organisation to the extent deemed necessary by the Contractor for due performance of the contract or due satisfaction of legal or professional obligations. This

confidentiality shall also not prevent the Contractor from using such information in proceedings to which it is a party. The confidentiality does not cover information of a confidential nature made public by a means other than an error by the Contractor. Lastly, the Contractor shall be entitled, except in the event of substantiated objections against such by the Client, to include the fact that the Client is its client in its marketing communications.

- 6.2 The Contractor shall be entitled to use mathematical results obtained through processing for statistical purposes or for purpose of comparison, providing individual clients cannot be traced based on those results.
- 6.3 The Contractor shall not be entitled to use the information made available by the Client for a purpose other than that for which it was acquired, except as provided in the paragraph 2 and in the event the Contractor is acting on its own behalf in disciplinary, civil or criminal proceedings to which said documents could be relevant. If the Contractor is identified as a perpetrator or co-perpetrator of a summary offence or crime, it shall be entitled to disclose documents to the Tax Inspector or the Court if such disclosure is necessary within the context of the Contractor's defence.
- 6.4 Unless explicit written permission is obtained from the Contractor in advance, the Client shall not be permitted to disclose or otherwise make available to third parties the contents of advice, opinions or other communications from the Contractor in writing or otherwise, except to the extent this ensues directly from the contract, if it is done to obtain an expert opinion on the relevant performance by the Contractor, if the Client is required by law or a professional duty to disclose such, or if the Client is acting on its own behalf in disciplinary, civil or criminal proceedings.
- 6.5 The Client shall is bound to confidentiality regarding confidential information from the Contractor. This information includes, but is not limited to, price agreements and other financial information about the Contractor and information regarding the operation and costs of the software, and all other information about the Contractor of which the confidential nature is or should have been clear to the Client. Not confidential is information that is public and accessible and was made such by a means other than an error by the Client.

## **7 Intellectual property**

- 7.1 All intellectual property rights on activities or established by performing activities belong exclusively to the Contractor or its suppliers.
- 7.2 The provisions of the previous paragraph also apply if the Client pays a fee for the development or acquisition of the records by the Contractor. In that event, the Contractor acquires the non-exclusive right to solely use the product supplied within its own organisation on its own behalf.

- 7.3 The Client is explicitly forbidden to issue to third parties, multiply, publish or exploit those products, including but not limited to computer programs, system designs, working methods, advice, model and other contracts and other intellectual property, all in the broadest sense, with or without help from third parties.
- 7.4 The Client shall not be allowed to give (the instruments of) those products to third parties other than in order to obtain an expert opinion on the Contractor's performance. In that event, the Client shall impose its obligations by virtue of this article on the third parties it engages.

## **8 I Privacy during the processing of personal data**

- 8.1 The client guarantees compliance with all requirements for the lawful processing of the personal data provided by the client to the contractor or entered into the software. The contractor will process the personal data provided by the client for the purpose of the Work in accordance with its obligations ensuing from applicable privacy laws and regulations.
- 8.2 In so far as the contractor can be regarded as a controller (or joint controller) for the processing of personal data for the purpose of its Work for the client, it will only process the personal data necessary for the purpose of its Work. These personal data will only be accessible to the contractor and the client and will not be provided to any third parties, unless the contractor is obliged to do so pursuant to applicable privacy laws and regulations.
- 8.3 If the client and the contractor jointly determine the purpose and means of processing, they are to be regarded as joint controllers on the basis of Article 26 GDPR. As the party that initially provided personal data, the client will be the primary point of contact for data subjects. In its capacity as joint controller, the client will therefore have primary responsibility for handling requests from data subjects made by virtue of Chapter III GDPR ('Rights of the data subject'). If the contractor receives such a request, it will pass on the request to the client and inform the data subject accordingly. The client will promptly, but in any event within the statutory periods applicable in that regard, respond to the data subject regarding the request. If handling such a request requires cooperation from the contractor, the client will contact the contractor. In all other cases, the contractor will in principle not contact any data subjects directly, except in so far as this ensues from the engagement. The provisions of this paragraph 3 do not prevent data subjects from exercising their rights against each of the joint controllers on the basis of the GDPR.

- 8.4 The client bears full responsibility for the data processed by the contractor or by the client by means of the software. The client warrants to the contractor that the data do not infringe any third-party rights. The client indemnifies the contractor for all legal claims from third parties, for whatever reason, in connection with the processing of these data or the performance of the agreement.
- 8.5 The contractor is permitted to provide customer data to requesting parties to which or with which certain personal data must be provided or filed pursuant to the law. The contractor is permitted to provide customer data to other parties for payroll purposes. In other cases, this may be done if expressly agreed with the client.
- 8.6 The contractor will implement sufficient technical and organisational measures to secure personal data against loss or against any form of unlawful processing (including unnecessary collection or further processing). Taking into account the state of the art, scope, context, processing purposes and costs of implementation, these measures will ensure an appropriate level of security in view of the risks associated with the processing and the nature of the data to be protected.
- 8.7 The client will give the contractor an opportunity to introduce and maintain an appropriate level of security. In so far as the client is assigned an authentication tool for access to, for example, a portal and the content present on it, the client will be required to handle the authentication tool with care. The contractor will never be responsible for any damage or costs ensuing from any use or abuse of the authentication tools, except in so far as such abuse is the result of intent or gross negligence on the part of the contractor.

## **9 Force majeure**

- 9.1 If the Contractor is unable to satisfy its obligations pursuant to the contract, including any guarantee obligation agreed between the parties, or to do so properly or in good time due to force majeure, those obligations shall be suspended until the Contractor is able to satisfy these as yet in the manner agreed.
- 9.2 Force majeure is understood to include: (I) non-attributable failure by the Contractor's suppliers, (II) failure by suppliers prescribed by the Client for use by the Contractor, (III) faultiness of items, hardware, software or materials of third parties prescribed by the Client for use by the Contractor, (IV) measures taken by government, (V) power failures, (VI) failures in the Internet, the computer network or telecommunication facilities, (VII) war, (VIII) sit-in strikes, (IX) general strikes, (X) general transport problems, (XI) the unavailability of one or more staff members, or (XII) other stagnations in the normal course of affairs within its business.
- 9.3 The Client shall be entitled, in the event of a situation as referred to in the first paragraph lasting more than ninety days, to terminate all or part of the contract in writing with immediate effect. Performance already given by the Contractor pursuant to the contract shall in that event be proportionately reimbursed.

## 10 Fee and costs

- 10.1 Prior to commencement of the activities and while performing its activities, the Contractor shall be entitled to suspend performance of the activities until the Client pays to the Contractor an advance payment determined by the Contractor in all reasonableness or provides security for such payment. In principle, an advance payment made by the Client shall be offset against the final invoice.
- 10.2 The Contractor's fee is not dependent on the results of the activities performed unless provided otherwise.
- 10.3 The Contractor's fee can consist of a pre-determined sum per contract and/or can be calculated based on rates per unit of time worked by the Contractor, and is owed to the extent that the Contractor has performed activities on behalf of the Client.
- 10.4 If a sum per contract has been agreed, the Contractor shall be entitled to charge an additional rate per time unit worked if and to the extent that the activities exceed the activities foreseen in the contract, which the Client shall then owe.
- 10.5 If wages or prices change after the contract is established, the Contractor shall be entitled to modify the agreed rate accordingly unless the Client and the Contractor have made other arrangements regarding this. If modifications lead to an increase of more than 5% per year, the Client shall be entitled during a period of fourteen days after receiving notice of the price increase to prematurely terminate the contract in due observance of a notice period of two weeks. The Contractor shall be entitled to cancel the termination and continue the contract at the previous rates if the Contractor notifies the Client accordingly within the notice period referred to in the previous sentence.
- 10.6 The Contractor's fee, if necessary increased by payments to and invoices from third parties engaged, shall be charged to the Client, including any sales tax due, per month, per quarter, per year or after the activities have been completed.
- 10.7 If the Contractor is obligated to execute an order issued by a government authority or to satisfy any provision of law regarding the Client, the Client shall pay the Contractor's fee and costs in that respect, also if this is not specified in the contract.
- 10.8 The Client shall pay to the Contractor the costs incurred by the Contractor in the performance of a contract.

## 11 Payment

- 11.1 Payment of the amount of an invoice by the Client shall be made within the agreed period, yet in any event no later than thirty days after the date of the invoice, in euros, at the Contractor's office or by means of a deposit into a bank account to be specified by the Contractor, and without any entitlement to discount, offsetting of debt or suspension.

- 11.2 If the Client fails to make payment within the period of time specified in paragraph 1 or within the period otherwise agreed, it shall automatically be in default and the Contractor shall be entitled, with no further demand or notification of default required, to charge to the Client the statutory (commercial) interest as referred to in Book 6, Article 119a of the Dutch Civil Code from the due date until the day payment is made in full, without prejudice to the Contractor's other rights.
- 11.3 All costs, both judicial and extrajudicial, incurred in the collection of the sum due shall be borne by the Client, including to the extent these costs exceed the court's order to pay the costs of proceedings. Extrajudicial costs are determined at a minimum of 15% of the sum to be collected, with a minimum of € 250.
- 11.4 If the Client's financial position or payment behaviour gives cause deemed due by the Contractor, the Contractor shall be entitled to request the Client to provide (additional) security in the form to be determined by the Contractor. If the Client fails to provide the requested security, the Contractor shall be entitled, without prejudice to its other rights, to immediately suspend further performance of the contract, and all sums due to the Contractor by the Client of any nature shall be immediately due.
- 11.5 In the event of an assignment issued collectively, to the extent the activities have been performed on behalf of the collective Clients, the Clients are jointly and severally liable for payment of the sum of the invoice.

## 12 Complaints

- 12.1 Notification of complaints regarding the activities performed or the sum of the invoice must be given to the Contractor in writing within thirty days of the date of dispatch of the documents or information over which the Client is complaining, or within thirty days of the date of discovery of the shortcoming if the Client demonstrates that the shortcoming could not reasonably have been discovered earlier.
- 12.2 Complaints as referred to in the first paragraph do not result in the suspension of the Client's obligation to pay except to the extent that the Contractor has indicated that the complaint is well-founded.
- 12.3 In the event of a justified complaint, the Contractor shall have the choice of modifying the fee charged, improving or repeating the rejected activities free of charge, or not performing all or part of the assignment (any longer) with refund of a proportionate part of the fee already paid by the Client.
- 12.4 If the complaint is not made in good time, the Client loses all rights regarding the complaint.

### 13 Liability and indemnification

- 13.1 The Contractor is solely liable vis-à-vis the Client for loss that is the direct result of a (related series of) attributable failure(s) in the performance of the contract or an unlawful act committed against the Client. This liability is limited to the sum awarded by the Contractor's liability insurer in the relevant case increased by any deductible due from the Contractor pursuant to the insurance. If the relevant activities are not covered or if the liability insurer does not award payment for any other reason, the total liability for all of the Contractor's failures under a contract and the entire unlawful act shall be limited to the amount of the fee charged for performance of that contract. If the contract is for continuing performance with a duration of more than a year, the amount referred to above shall be limited to three times the fee charged to the Client in the twelve months prior to the damage, to the extent that this fee does not pertain to costs that have been passed on. If a contract pertains to the services listed under F, that amount shall be determined at most at the sum charged to the Client per year. In no event shall the total damages pursuant to this article exceed the sum of € 300,000 per Client per year, in which respect a series of related events shall be considered to be a single event, unless the parties see good cause when entering into the contract to deviate from this maximum with a view to the scope of the assignment or the risks involved with the assignment. A limitation of the liability shall not apply only if intent or gross negligence by the Contractor's supervisors is involved.
- 13.2 The Contractor is not liable for:
- loss incurred by the Client or third parties as a result of incorrect or incomplete data or information being supplied by the Client to the Contractor, or otherwise caused by an act or omission by the Client;
  - corruption, destruction or loss of information;
  - loss incurred by the Client or third parties as a result of an act or omission by agents called in by the Contractor (not including employees of the Contractor), even if employed by an organisation affiliated with the Contractor;
  - business, indirect or consequential damage, including but not limited to loss incurred by the Client or third parties resulting from stagnation in the Client's normal course of business. The Contractor is therefore not liable for missed orders, for example, lower profits, lower sales, lower value of the company's goodwill, ineffective advertising efforts and the like.
- 13.3 The Contractor shall be entitled at all times, if and to the extent possible, to undo any loss incurred by the Client or to limit such loss by repairing or improving the activities.
- 13.4 The Contractor is not liable for damage or loss of records during transport or shipment by post, regardless of whether the transport or shipment is done by or on behalf of the Client, the Contractor or third parties.

- 13.5 During performance of the assignment, the Client and the Contractor can communicate with one another by electronic means. The Client and the Contractor are not reciprocally liable for any loss incurred by one or both as a result of the use of electronic means of communication, including, but not limited to, loss caused by failed or delayed delivery of electronic communication by third parties or by software/hardware used for the transmission, receipt or processing of electronic communication, the transfer of viruses, and any failure of the telecommunication network or any other means needed for electronic communication to work or work properly, except to the extent that the loss is caused by intent or gross negligence. Both the Client and the Contractor shall do or refrain from doing everything that could be reasonably expected in preventing the occurrence of the abovementioned risks.
- 13.6 Without prejudice to Article M, a claim for compensation for loss must be submitted to the Contractor within twelve months after the Client has discovered or could reasonably have discovered the loss, in the absence of which the right to damages expires.
- 13.7 The Client indemnifies the Contractor from any claims by third parties, including the Client's shareholders, managing directors, supervisory directors and personnel, and all affiliated legal entities and companies and others involved in the Client's organisation that are directly or indirectly involved in performance of the contract. The Client indemnifies the Contractor in particular from claims by third parties due to loss caused because the Client supplied incorrect or incomplete information to the Contractor, unless the Client can demonstrate that the loss is not related to an attributable act or omission on its part or is caused by the Contractor's intent or gross negligence. The above does not apply to assignments to audit annual accounts as referred to in Book 2, Article 393 of the Dutch Civil Code.
- 13.8 The Client indemnifies the Contractor from all possible claims by third parties in the event that the Contractor is required by law or its professional rules to refuse the assignment or is required to cooperate with government authorities entitled to receive requested or unrequested information that the Contractor has received from the Client or from third parties in performing the assignment.

## **14 Expiry date**

To the extent these general terms and conditions do not provide otherwise, without prejudice to Article M, rights of claim and other Client powers, for any reason whatsoever, vis-à-vis the Contractor with regard to activities being performed by the Contractor shall in any event expire one year after the point in time at which the Client learned or could reasonably have learned of the existence of these right and powers. This period shall not apply to the possibility of submitting a complaint to the relevant authority/authorities for handling complaints or the Raad voor Geschillen.

## **15 Termination**

- 15.1 The Client and the Contractor shall be entitled to terminate the contract at any time with immediate effect. If the contract is terminated before the assignment is completed, the provisions of Article K (2) apply.
- 15.2 If continual access to software is involved, the Client may only terminate this contract in writing near the end of the agreed or extended period with due observance of a notice period of three months. If the Client does not terminate or does not do so in good time, the contract will be automatically extended by a period equal to the first period. The Contractor can prematurely terminate at any time without liability.
- 15.3 The other party shall be notified of the termination in writing.
- 15.4 If and to the extent that the Contractor terminates the contract with notification, it shall inform the Client of the reasons upon which the termination is based and do everything required in the circumstances in the Client's interest.

## **16 Right of suspension**

The Contractor shall be entitled to suspend satisfaction of all of its obligations, including the issue of records or other items to the Client or to third parties, until the point in time at which all sums due from the Client have been paid in full. The Contractor may only refuse its obligation to issue records after a careful weighing of interests.

## **17 Nullity rectification clause**

- 17.1 If any provision of a contract (including these general terms and conditions) is nullified, is declared invalid or proves unenforceable pursuant to any legal provision or judicial decision or otherwise, this shall in no way affect the validity of all other provisions.
- 17.2 If any provision of a contract (including these general terms and conditions) is invalid for a reason as referred to in the previous paragraph, but would be valid if its scope or purport is diminished, that provision will – first – automatically apply with the greatest valid diminished scope or purport.
- 17.3 Without prejudice to the provisions of paragraph 2, if desired the parties can commence consultation to agree upon new provisions to replace the void or nullified provisions. In doing so, the purpose and purport of the void or nullified provisions shall be adhered to insofar as possible.

## **18 Applicable law and choice of forum**

- 18.1 All obligations between the Client and the Contractor are governed by Dutch law.
- 18.2 All disputes related to contracts between the Client and the Contractor to which these general terms and conditions apply shall be submitted to the competent court in the District of Amsterdam.
- 18.3 In deviation from the provisions of paragraph 2, the Client and the Contractor can choose a different method for dispute resolution.

## **19 Other provisions**

- 19.1 If the Contractor performs activities at the Client's location, the Client shall provide a suitable workplace that satisfies the statutory working conditions requirements and all other applicable regulations regarding working conditions. In that event, the Client shall ensure that the Contractor is provided with office space and other facilities deemed necessary or useful by the Contractor in performing the contract that satisfy all applicable (statutory) requirements. With regard to the (computer) facilities provided, the Client shall ensure continuity, including by means of adequate back-up, security and virus detection procedures. The Contractor shall perform virus detection procedures when utilising the Client's facilities.
- 19.2 The Client shall not hire or approach any of the Contractor's employees involved in performing the activities for direct or indirect employment, temporary or otherwise, with the Client, or directly or indirectly on the Client's behalf, for the performance, salaried or otherwise, of activities during the period of the contract or any extension thereof and during a period of twelve months thereafter.
- 19.3 The Contractor's records, electronic or otherwise, provide complete proof of its assertions, without prejudice to any evidence to the contrary.