

General Terms and Conditions De Pooter Groep B.V. [private limited company], whose registered office and principal place of business is situated at Oranjestraat 5, (4571 HN) Axel

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## Chapter 1 Preliminary provisions

### Article 1 Definitions

In these general terms and conditions the terms below have the following meaning:

1. **CLA:** the *Collective Labour Agreement for agency workers*, concluded between the Federation of Private Employment Agencies [abbreviated in Dutch as ABU] on the one hand and the relevant employees' organisations on the other hand.
2. **Service(s):** the service provision of the agency, including, but not exclusively, the posting of employees, recruitment and selection, recruitment process outsourcing, HR advice, outplacement, managed service provider, availability of tools or technical platforms for recruitment or intermediation, payrolling and the service provision related therewith.
3. **Fee:** the remuneration owed by the client to the agency with respect to the assignment.
4. **Hirer's remuneration:** the hirer's remuneration as defined in the CLA or remuneration scheme of the client.
5. **Candidate:** every natural person recommended by the agency to the client, or at least with whom the client has got into contact through the agency as a result of either entering into an employment relationship with such candidate or the posting of such person with the client or a third party appointed by the client subject to these terms.
6. **Assignment:** the contract between the client and the agency based on which one or more services are provided by the agency.
7. **Client:** every natural or legal person who is a party to the assignment besides the agency.
8. **Client's rate:** the rate owed by the client to the agency for the posting of agency workers, excluding additional charges, reimbursement of expenses and VAT. The rate will be charged by the hour, unless stated otherwise.
9. **Payrolling:** the posting by the agency of an agency worker recruited and selected by the client for working pursuant to an assignment under the management and supervision of the client or a third party appointed by the client subject to these terms.
10. **Posting:** the agency making an agency worker available for working pursuant to an assignment under the management and supervision of the client or a third party appointed by the client subject to these terms.
11. **The agency:** De Pooter Groep B.V. [private limited company] and its subsidiaries, including Uitzendbureau De Pooter Techniek & Industrie B.V., De Pooter B.V., Talentpool Services B.V., De Pooter Personeelsdiensten B.V, De Pooter BMZ B.V.
12. **Temporary employment clause:** the written provision in the employment agreement between the agency and the agency worker and/or in the CLA, implying that the employment agreement will end by operation of law because the posting by the agency of the agency worker with the client terminates on request of the client (Article 7:691, paragraph 2, of the Dutch Civil Code).
13. **Agency worker:** every natural worker, who has entered into a temporary employment contract with the agency as referred to in Article 7:690 of the Dutch Civil Code in order to carry out work for a third party under the management and supervision of such third party.

### Article 2 Scope

1. These general terms apply to all assignments and other contracts between the agency and the client, and to all legal acts aimed at the formation thereof, including offers, proposals and quotations. These general terms include preliminary provisions (chapter 1), general provisions (chapter 3) and provisions related only to a specific service (chapter 2). In so far as (part of a)

specific provision is conflicting with a preliminary or general provision, (this part of the) specific provision will prevail over the preliminary or general provision.

2. Possible purchase or other conditions of the client do not apply and are explicitly excluded by the agency.
3. Agreements diverging from these general terms only apply if agreed in writing and exclusively hold for such assignment.
4. These terms and conditions are translated from the Dutch terms and conditions (“algemene voorwaarden”) of the agency. In case of any discrepancies between the Dutch version and this translated English version, the Dutch version shall prevail.

### **Article 3 Conclusion, duration and termination of the assignment**

1. The assignment shall be concluded for a definite or indefinite period of time.
2. The assignment for a definite period of time is the assignment which shall be concluded:  
either for a fixed period of time;  
or for a determinable period of time;  
or for a determinable period of time which does not exceed a fixed period.
3. The assignment for a definite period of time terminates by operation of law by the elapsing of the time agreed or because an event occurs which has objectively been determined in advance.
4. The assignment for an indefinite period of time terminates by notice of termination in writing observing a notice period of 30 calendar days, unless agreed otherwise in writing.
5. Early termination of the assignment for a definite period of time is not possible, unless agreed otherwise in writing. If an option of early termination has been agreed, the notice of termination must be issued in writing observing a notice period of 30 calendar days, unless agreed otherwise in writing.
6. The Agency is entitled to terminate the contract with immediate effect in one or more of the following cases:
  - if the client acts contrary to any provision of the assignment and this breach has not been rectified, in so far as possible, within seven days after the notification in writing;
  - if the client acts in such a way, that it is not reasonable to require the agency to maintain the contract, as in the case of acting contrary to the interests of the agency, deceit and/or fraud;
  - if the client is declared insolvent, or if the client is granted (provisional) suspension of payments, or if the client loses for any other reason the right to dispose of any of his assets wholly or in part;
  - If the client discontinues his business operations wholly or in part.If the agency terminates because of one of these reasons, the request of the client to terminate the posting, if any, shall be included in the behaviour of the client as a ground on which the termination is based. This will not lead to the agency being liable for the damage suffered therefore by the client. As a result of the termination the claims of the agency shall be immediately due and payable.
7. Provisions meant by nature to continue after termination of the assignment, such as provisions with respect to payment, liability, intellectual ownership, confidentiality, privacy and applicable law remain in force after termination of the assignment.

## **Chapter 2 Specific provisions**

### **A. Recruitment and Selection**

#### **Article 4 Recruitment and selection of candidates**

1. Recruitment and selection also includes recruitment process outsourcing.
2. The agency bases recruitment and selection of candidates on an assignment for recruitment and selection aimed at an employment relationship between the client and the candidate or based on an assignment for posting the candidate with the client. On giving the assignment, the client shall make it known whether he requires the recruitment and selection of the candidate with a view to entering into an employment relationship with such candidate or with a view to the posting of such candidate with the client.
3. The agency is entitled to freely use the trade name and logo/trade mark of the client when recruiting candidates for the client.
4. The client shall provide the agency on time all information that is relevant for a good performance of the assignment, including an accurate description of the job, the desired and required qualifications, (an indication of the) salary, working hours, working time, activities, working place, working conditions and the intended duration of the assignment. If and in so far as the agency suffers damage because the information and details provided with the assignment were incorrect and/or incomplete, the client is bound to fully compensate the agency for such damage, including the actual costs of legal assistance. This does not affect the other rights (to claim) of the agency.
5. Based on the information provided by the client and the candidates' qualifications, knowledge and skills known to the agency, the agency shall determine which candidates it recommends to the client. The client has the right to reject the recommended candidate. If so requested, the client shall explain the possible rejection in writing.
6. The agency shall endeavour to offer a potentially appropriate candidate on time. The agency is not guilty of attributable failure towards the client and is not bound to compensate the client for any damage or costs, if the agency is for whatever reason not able to offer a candidate or do so in good time. The agency is not liable if a candidate recommended by the agency:
  - cannot be posted as an agency worker with the client for whatever reason; or
  - does not wish to enter into an employment relationship with the client or terminates an employment relationship (early) that has already been entered into.
7. The agency is not liable for damage related to the posting of candidates who appear not to satisfy the requirements imposed and expectations set up by the client.

#### **Article 5 Recruitment and selection aimed at an employment relationship between the client and the candidate**

1. Each assignment for recruitment and selection aimed at an employment relationship between the client and the candidate terminates by operation of law at the moment the client indicates they are (will be) entering into an employment relationship with a candidate.
2. The client and the candidate decide whether and if so, under what conditions they wish to enter into an employment relationship and wish to maintain it.
3. The client owes the agency the fee stated in the assignment (confirmation) for the recruitment and selection aimed at an employment relationship between him and the candidate. In default of recording a fee in the assignment (confirmation), the client owes the fee notified in the offer

of the agency. If the offer also does not mention any fee, then the fee will amount to 25% of the applicable full-time salary being in force with the client for the job of the candidate, including holiday allowance and other emoluments, including, but not limited to, the (anticipated) bonus, profit-sharing bonus, profit sharing and allowances for representation expenses. If no (correct) salary has been passed on to the agency, the agency shall determine an annual salary in line with market conditions, based on the details of the job and the labour market known to the agency.

4. Unless otherwise agreed, the fee is only due, if the client or a third party designated by him effectively enters into an employment relationship with a candidate who has been recommended by the agency or with whom the client has come into contact with otherwise through the agency, and in the case referred to hereinafter in paragraph 8.
5. The fee includes the expenses of the recruitment resources and activities usually deployed by the agency. This means the usual licence, subscription and system costs. The fee excludes the expenses connected with additional recruitment resources or activities - applied in consultation with the client - and the travel and subsistence expenses incurred by the candidate in relation to the selection procedure. These costs will be charged separately and independent of the result of the broking activities, even if the client terminates or withdraws the assignment without having entered into an employment relationship with a candidate recommended by the agency. The fee and the expenses are increased by the VAT.
6. The client is obliged to inform the agency without delay if an employment relationship is entered into between the client or a third party affiliated with him on the one hand and a candidate proposed by the agency on the other.
7. Unless otherwise agreed, the fee will be charged as soon as the client indicates they are (will be) entering into an employment relationship with a candidate recommended by the agency or as soon as it becomes known to the agency that the client is going to enter or has entered into an employment relationship with a candidate.
8. If the client has come into contact with a candidate through the agency (for instance because the candidate has been recommended to the client by the agency in view of the posting of such candidate or the establishing of an employment relationship with such client) and the client or a third party affiliated with him enters into an employment relationship with such candidate within 6 months of the taking place of the contact, the client is considered to have concluded an assignment for recruitment and selection with the agency as referred to in this article and the client is obligated to pay the fee mentioned in paragraph 3 to the agency.

## **B. Advice**

### **Article 6 Advice assignment**

There only is an assignment for the granting of advice, if and in so far as this is agreed in writing or confirmed in writing by the agency. The terms of the assignment (confirmation) and these general terms apply to the advice. Each assignment terminates by operation of law at the time that the work to be performed by the agency based on the assignment (confirmation) has been fully carried out and completed.

### **Article 7 Carrying out advice**

1. The advice is based on the information made available by the client to the agency. Based on this information, the agency shall advise to the best of its knowledge and ability, aiming to achieve the targets for the assignment or other agreement formulated by the client. The agency

cannot guarantee that the targets set by the client will indeed be actually realised. It is the client who may assess whether he should follow the advice.

2. The information to be provided by the client involves among other things information about the current set-up of the organisation and the personnel policy and the (potentially) approaching changes therein. The cooperation to be offered by the client involves among other things the making available of its own employees on request of the agency.
3. The agency will appoint one or more advisers for the execution of the advice. Besides its own employees, the agency can engage third parties for the execution of the advice, after consultation with the client. The agency is entitled, taking into account the quality and continuity of the advising, to change the person(s) involved as advisers, the number of the advisers and their time spent.
4. The agency will not be liable for potential claims from employees of the agency or third parties engaged by the agency related to the performance of the assignment at a location of the client or at a location pointed out by the client. The client must indemnify the agency in this matter.

#### **Article 8 Advice rate**

1. The assignment (confirmation) specifies the rate for the advice. The rate, as specified in the assignment (confirmation) by the agency, is excluding the costs related to the assignment, such as travel and subsistence expenses, the costs of third parties engaged after consultation with the client, expenses required for the performance of the assignment on behalf of the lay out/ adapting of the workplace and/or ICT equipment to be implemented for the assignment in particular. Work that is not referred to in the assignment (confirmation) will be charged for separately. Unless otherwise specified, the rate is an hourly rate. The rate and the expenses are increased by the VAT.
2. If the client cancels or does not comply with agreements for whatever reason and the agency is therefore faced with damage or costs, for instance because of inactivity of the employees involved in the assignment, the rate is notwithstanding due or - if the rate is otherwise specified than per hour or (part-) day - the client must reimburse the additional hours to be spent by the agency and the costs incurred or to be incurred.
3. If there are any circumstances that mean a complication or addition to the assignment or the activities which have to be performed in the framework thereof, such as additional work, replacement of the employees by the client involved with the assignment or lack of cooperation by the client, this can lead to adjustment of the costs related to the assignment and the rate and/or additional hours to be charged by the agency.
4. Unless otherwise agreed in writing, the agency shall invoice monthly in advance the applicable rate for the activities to be performed in such month as expected in the framework of the assignment. Costs related to the assignment shall be charged in arrears monthly.

### **C. The posting of agency workers**

#### **Article 9 Posting**

1. Posting also means payrolling, unless the relevant article specifies otherwise.
2. The commencement of the posting is included in the assignment (confirmation).
3. Termination of the assignment means the end of the posting. Termination of the assignment by the client implies the request to the agency from the client to terminate the current posting (s) by the date on which the assignment is legally terminated.

4. If the temporary employment clause is effective between the agency worker and the agency, the posting of the agency worker will terminate on request of the client at the time that the agency worker announces that he is unable to perform work because of incapacity for work. In so far as is required, the client is supposed to have made this request. If asked, the client will confirm this request to the agency in writing.
5. The posting terminates by operation of law if and when the agency is unable to continue the posting of the agency worker, because the employment contract between the agency and the agency worker has been terminated and this employment contract is not continued consecutively on behalf of the same client. In this case the agency is not guilty of attributable failure towards the client nor is it liable for potential damage suffered by the client because of this.
6. The client informs the agency on time of the termination or continuation of the assignment with due observance of article 12 paragraph 2, in order to enable the agency to comply correctly and fully with its obligations concerning a statutory notice period.
7. A client has no exclusivity on any candidate, if the agency wants to make the candidate available to another client, this is possible at all times, or in good consultation.

#### **Article 10 Replacement and availability**

1. At all times, the agency has the right to make a proposal to the client for substituting one of the posted agency workers for another agency worker under continuation of the assignment, taking into consideration among other things the business policy or personnel policy of the agency, maintenance of employment or compliance with the current legislation and regulatory measures, in particular the CLA and redundancy guidelines for the agency sector. The client will only reject such a proposal on reasonable grounds. If so requested, the client will explain the possible rejection in writing.
2. The agency is not guilty of attributable failure towards the client and is not bound to repair any damage or costs to the client, if the agency cannot (anymore) for whatever reason post a (substituting) agency worker with the client, or at least not anymore in the way and size as agreed in the assignment or afterwards.

#### **Article 11 Right of suspension**

1. The client has no right to temporarily suspend the employment of the agency worker fully or in part, unless it is a case of circumstances beyond one's control in the meaning of Article 6:75 of the Dutch Civil Code.
2. Contrary to paragraph 1 of this article suspension is possible if:
  - this has been agreed in writing between the agency and the client and the duration is then fixed; and
  - the client proves that temporarily no work is available or the agency worker cannot be employed for another reason; and
  - The agency can successfully invoke against the agency worker the exclusion of the obligation to continue to pay wages based on the CLA.

The client is not obligated to pay the client's fee for the duration of the agreed period of suspension.

#### **Article 12 Working procedure**

1. This article will not apply to payrolling.
2. Before commencement of the assignment, the client will provide the agency with an accurate description of the job, job requirements, working hours, working time, activities, work place, working conditions and the intended duration of the assignment.
3. Based on the information provided by the client and the agency's knowledge of the qualifications, knowledge and skills of the (candidate) agency workers qualifying for posting, the agency shall determine which (candidate) agency workers it recommends to the client in order to perform the assignment. The client has the right to reject the recommended (candidate) agency worker, so that the posting of the recommended (candidate) agency worker does not take place.
4. The agency is not guilty of failure towards the client if the contacts between the client and the agency prior to a potential assignment, including a specific request of the client for posting an agency worker, do not or do not within the term determined by the client for whatever reason lead to the actual posting of an agency worker.
5. The agency is not liable for the damage caused by the deployment of agency workers who appear not to meet the requirements set by the client, unless the client files a complaint in writing with the agency within a reasonable term after commencement of the posting and proves therein that it has been a matter of intent or wilful recklessness of the agency with the selection.

#### **Article 13 Working time and working hours**

1. The hours of work and the working hours of the agency worker with the client shall be fixed in the assignment (confirmation) or shall be separately provided by the client to the agency worker. The working hours, the working time and rest hours of the agency worker are equal to the usual times and hours in this regard with the client, unless agreed otherwise. The client guarantees that the working time and the rest and working hours of the agency worker comply with the legal requirements. The client ensures that the agency worker does not exceed the legally permitted working hours and the agreed hours of work.
2. Holidays and leave of the agency worker are regulated in conformity with the law and the CLA.
3. The client gives the agency worker the opportunity to receive the training offered to him in the framework of the law and the CLA. If the agency worker needs specific training or working instructions in order to perform the assignment or receives training on request of the client, the client shall be charged for the hours spent by the agency worker on such training as being hours worked. The client shall not be charged for hours spent on other training, unless otherwise agreed. The periods of absence required for other training shall be fixed by the agency after consultation with the client.
4. If the hours of work to be performed by the agency worker and/or the working hours are not clearly stated and the client does not give the employee the opportunity to work three or more (consecutive) hours per shift then the client owes the agency the client's fee per shift for three hours or as many more hours as the employee usually would have worked or might have expected to work.

#### **Article 14 Business closure and mandatory days off**

1. Concluding the assignment, the client shall inform the agency about potential business closures and collectively mandatory days off during the course of the assignment, to ensure that the agency can make this circumstance, if possible, part of the employment contract with the agency

worker. If the intention to establish a business closure and/or collectively mandatory days off is made known after the assignment is concluded, the client shall inform the agency immediately after he becomes aware thereof.

2. If the client fails to inform the agency in good time, the client is bound to pay the client's full fee to the agency pursuant to the assignment and conditions most recently applicable or usual number of hours or overtime during the period of the business closure.

#### **Article 15 Position and remuneration**

1. Before commencement of the assignment, the client will provide the agency with the description of the job to be performed by the agency worker, the corresponding pay scale and information on all elements of the hirer's remuneration (concerning the amount and the time: only in so far as is known at the time).
2. The remuneration of the agency worker, also including additional payments and expense allowances, where applicable, will be determined in conformity with the CLA (also including the provisions regarding the hirer's remuneration) and the applicable legislation and regulatory measures, such based on the job description provided by the client.
3. Breaks will be paid without loss of wage and passed on to the client, if the client's own employees also have the right to continued payment during breaks.
4. If it appears at any moment that the information received from the client, referred to in paragraph 1 of this article, is not (fully) correct, is not provided in good time and/or enough to determine the actual job of the agency worker, the client shall still provide the correct information to the agency immediately. The remuneration of the agency worker will again be determined based on the new/correct details. The job description and/or pay scale can be adjusted in the course of the assignment. If the adjustment leads to a higher remuneration for the agency worker, the agency will adjust the remuneration of the agency worker plus the client's fee accordingly. The client owes this adjusted fee as from the time that the agency owes the adjusted remuneration to the agency worker.
5. The client shall inform the agency about changes of the hirer's remuneration and determined initial pay rises on time and in any event directly when these become known to him.
6. Overtime work, shift work, on special times or days (including public holidays) and/or shifted hours will be rewarded in conformity with the relevant applicable scheme in the CLA or - if applicable - the hirer's remuneration and passed on to the client.
7. With due regard to the provisions of this article, the agency ensures the pay of the agency worker and the payment of income tax and national insurance contributions deducted by the employer due. The client will not pay the agency worker any remunerations or furnish provisions without consent of the agency. If the client pays the agency worker any remunerations or furnishes him any provisions, the client will ensure the payment of all income tax and national insurance contributions deducted by the employer due because of such remunerations and furnishings. The client will compensate the agency for all damages suffered by the agency as a result of the fact that income tax and national insurance contributions deducted by the employer are due on the remunerations and furnishings and it indemnifies the agency for claims in this matter from the agency worker or third parties, including the Tax and Customs Administration.

### **Article 16 Good performance of management and supervision**

1. The client will ensure to act in the same careful way regarding the performance of management and supervision, and the performance of work with respect to the agency worker as he is bound to act with respect to his own employees.
2. The client is bound to inform the agency on a regular basis and in any case on first demand of the agency about the performance and wellbeing of the agency worker. Circumstances which might have any impact on the continuation of the posting must be notified by the client to the agency as soon as possible.
3. The client is not allowed to 'second' the agency workers in his turn to third parties, subject to the agency's permission; this means that he is not allowed to make the agency worker available to third parties for working under the management and supervision of such third party. Third parties also include (legal) persons with whom the client is affiliated in a group (concern).
4. The client can only employ the agency worker contrary to the provisions of the assignment and the terms, if the agency and the agency worker have previously consented therewith in writing.
5. Employment of the agency worker abroad by a client who has its registered office in The Netherlands is only possible for a definite period of time, under condition that the client has organised the management and supervision together with the employment being agreed by the agency and the agency worker in writing.
6. The client will compensate the agency worker for the damage suffered by him because a good belonging to him, which was used in the context of the ordered activities, was damaged or lost.
7. The agency is not liable towards the client for damage and loss suffered by the client, third parties or the agency worker himself, arising from the act or omission of the agency worker.
8. The agency is not liable towards the client for agreements entered into by agency workers with or created for them towards the client or third parties, whether or not with consent of the client or such third parties.
9. The client shall indemnify the agency for each liability (inclusive costs including the actual costs for legal assistance) as employer of the agency worker - directly or indirectly - for damage, loss and agreements referred to in paragraphs 6, 7 and 8 of this article.
10. The client will, in so far as possible, take out an adequate policy for liability, based on the provisions of this article. On request of the agency, the client must prove the existence of such insurance.

### **Article 17 Working conditions**

1. The client declares that he is aware of the fact that the Working Conditions Act considers him to be the employer.
2. The client is liable towards the agency worker and the agency for compliance with the obligations arising from Article 7:658 of the Dutch Civil Code, the Working Conditions Act and the regulatory measures relating thereto in the area of safety in the workplace and good working conditions in general.
3. The client is bound to inform the agency worker and the agency in writing in good time, in any case one working day before commencement of the activities, about the required professional qualifications and the specific characteristics of the job to be taken. The client shall provide the agency worker active information with regard to the Hazard Identification and Risk Assessment [abbreviated in Dutch as RIE].
4. If an accident at work or an occupational disease happens to the agency worker, the client shall, if legally required, notify the competent authorities immediately and ensure that a written report

is immediately drawn up. The report must lay down the circumstances of the accident at work or the occupational disease in such a way, that it furnishes a reasonable degree of certainty whether and to what extent the accident at work or the occupational disease is the result of the fact that inadequate measures were taken to prevent such accident at work or occupational disease. The client must inform the agency about the accident at work or the occupational disease as soon as possible and must submit a copy of the report drawn up.

5. The client shall compensate the agency worker for all damage the agency worker suffers in the context of his activities, if and in so far as the client is liable therefore pursuant to Article 7:658 and/or Article 7:611 and/or Article 6:162 of the Dutch Civil Code.
6. If the accident at work leads to death, the client is bound to compensate the damage (inclusive the costs including the actual costs of legal assistance) in conformity with Article 6:108 of the Dutch Civil Code to the persons referred to in that article. The client must indemnify the agency for all claims towards the agency as employer of the agency worker from the persons referred to in this paragraph.
7. The client shall take out an adequate policy for liability, based on the provisions of this article. On request of the agency, the client shall prove the existence of such insurance.

#### **Article 18 Client's fee**

1. The client's fee due by the client to the agency is calculated according to the number of hours worked by the agency worker and/or (if this number of hours is higher) according to the hours to which the agency has a claim pursuant to the general terms, assignments and/or any further agreement. The client's fee shall be increased by the additional charges and increased by the expense allowances which the agency owes the agency worker, or the additional charges and expense allowances will be charged separate to the client's fee. VAT will be charged on the client's fee, the additional charges and the expense allowances.
2. Besides the case referred to in Article 15, paragraph 4, the agency has in any case the right to adjust the client's fee during the course of the assignment, if the costs of the temporary agency work increase, for instance as a result of:
  - change of the CLA or the wages regulated thereby or change of the CLA in force with the client and/or terms and conditions of employment or the wages regulated thereby;
  - changes in or as a result of the legislation and regulatory measures, including changes in or as a result of the social and fiscal legislation and regulatory measures, the CLA or any binding rule;
  - any regular wage increase and/or a (nonrecurrent) mandatory benefit, arising from the CLA, the CLA in force with the client and/or terms and conditions of employment and/or legislation and regulatory measures.
3. The client not paying the adjusted client fee, indicates the request of the client to terminate the posting.
4. Each adjustment of the client's fee will be notified to the client by the agency as soon as possible and confirmed to the client in writing.
5. If by any cause attributable to the client the remuneration of the agency worker was determined too low, the agency has the right to determine the correct/higher remuneration with retroactive effect (also) later on and to adjust the client's fee and charge the client accordingly with retroactive effect. The agency may also charge the client for the costs which the agency incurred as a result hereof.

### **Article 19 Time accounting**

1. The agency will draw up its invoice based on the time accounting provided and approved by the client.
2. If no method of time accounting has been agreed, the time accounting will take place through the claim forms approved by the client in writing. The client and the agency may agree that the time accounting will take place through a time recording system, an electronic and/or automated system or through summaries drawn up by or for the client.
3. Irrespective of the method of time accounting, the client will ensure that he draws up a correct and complete time accounting and is bound to supervise or have supervised that the details of the agency worker laid down therein are correct and completed truthfully, such as: name of the agency worker, the number of hours worked, overtime, irregular hours and shift hours, the other hours on which the client's fee is due in accordance with these general terms, assignments and/or any other agreements, the possible additional charges and possible expenses actually spent.
4. Irrespective of the method of time accounting, the client will ensure that the agency has the time accounting at its disposal following on the week worked by the agency worker. The client is responsible for the way the time accounting is provided to the agency.
5. Before the client provides the time accounting, he will give the agency worker the opportunity to check this time accounting. If and in so far as the agency worker disputes the details laid down in the time accounting, the agency has the right to determine the hours and costs, in accordance with the specification of the agency worker, unless the client can prove that the details it provided are correct.
6. If the time accounting takes place through claim forms provided by the agency worker, the client keeps a copy of the claim form. If there is any difference between the claim form provided by the agency worker to the agency and the copy kept by the client, the claim form provided by the agency worker to the agency will be conclusive evidence, except for evidence to the contrary from the client.

### **Article 20 Employment of agency worker by the client**

1. This article does not apply to payrolling.
2. In the provisions in this article the term agency worker is also used for agency workers whose posting with the client was terminated less than 26 weeks before the establishing of the employment relationship with the client.
3. The client has the right to establish an employment relationship with an agency worker, with due regard to the provisions of this article.
4. The client who is intending to establish an employment relationship with the agency worker must notify the agency hereof in writing in good time, prior to implementing his intention.
5. Establishing an employment relationship with an agency worker means:
  - an entering into an employment contract, a contractor agreement and/or a contract for services by the client with the agency worker;
  - the making available of the agency worker by a third party (for instance another employment agency);
  - the establishing of an employment relationship by the agency worker with a third party, in which the client and such third party are affiliated in a group as referred to in Article 2:24b of the DCC or the one party is the subsidiary of the other as referred to in Article 2:24a of the DCC.

This applies either in the event that the client has approached the agency worker for this purpose - directly or through third parties - or when the agency worker - directly or through third parties - has applied for a job with the client.

6. If the client establishes an employment relationship with an agency worker, who is made available to him based on an assignment for an indefinite period of time, before the agency worker has worked 1580 hours - based on such assignment - the client owes the agency a payment of 25% of the most recent client's fee for 1580 hours minus the hours already worked by such agency worker - based on the assignment- . The payment, which will be immediately due and payable, is increased by the VAT.
7. If the client establishes an employment relationship with an agency worker, who is made available to him based on an assignment for a definite period of time, the client owes the agency a payment of 25% of the most recent client's fee (calculated according to the agreed or usual hours and additional hours/overtime) over the remaining term of the assignment or - if the assignment is terminable early –over the notice period not taken into account, with the proviso that the client always owes at least the compensation referred to in paragraph 6. The payment, which will be immediately due and payable, is increased by the VAT.
8. If an agency worker has been recommended to a client by intermediation of the agency and such client establishes an employment relationship with this agency worker for the same or another job before the posting has become effective, the client owes an immediately due and payable compensation of 25% of the client's fee, calculated for a period of 1580 hours. The client also owes this compensation if the agency worker establishes an employment relationship within six months of the coming into being of the contact.
9. If the client establishes an employment relationship with the agency worker within 26 weeks of the end of his posting, the client also owes the immediately due and payable compensation referred to in paragraph 8.
10. The agency has the right to determine a different compensation scheme for an agency worker or specific groups of agency workers.
11. If the client establishes an employment relationship with an agency worker in accordance with this article, the assignment between the client and the agency terminates commencing on the day the employment relationship starts.
12. In the event of a breach of obligations by the client as referred to in this article, the client forfeits an immediately due and payable fine of € 10,000 for each violation and of € 1,000 for each day that the violation continues, without prejudice to the right of the agency to claim full compensation instead of this fine.

#### **Article 21 Obligations with respect to the Placement of Personnel by Intermediaries Act**

1. The client declares explicitly that he is aware of Article 8a of the Placement of Personnel by Intermediaries Act and ensures that the agency workers have the same access to the business facilities or services of his organisation, in particular canteens, childcare and transport facilities, as the employees who are employed by his organisation in equal or equivalent jobs, unless difference in treatment is justified because of objective reasons.
2. The client declares explicitly that he is aware of Article 8b of the Placement of Personnel by Intermediaries Act and ensures that vacancies arising within his organisation will be made known to the agency worker in good time and clearly, in order that this agency worker has the same opportunities for entering into an employment contract for an indefinite period of time as the employees of such organisation.

3. The client declares explicitly that he is aware of Article 10 of the Placement of Personnel by Intermediaries Act. The agency is not allowed to post agency workers to (the department of) the organisation of the client, where a strike, lockout or factory occupation exists. The client will fully and in good time inform the agency of (anticipated) collective actions, organised by the trade unions or unorganised, including in any event strikes, lockouts or factory occupations.

#### **Article 22 Participation in decision-making**

1. The client is bound to allow the agency worker who is a member of the works council of the agency or of the works council of the client to exercise such participation rights in conformity with the legislation and regulatory measures.
2. If the agency worker exercises participation rights in the organisation of the client, the client also owes the client's fee for the hours in which the agency worker is involved in activities during working hours or follows any training related to the exercising of participation rights.
3. The client declares to be aware of his duties of disclosure pursuant to the Works Councils Act (hereinafter: WOR [the abbreviation of the Dutch Act]) concerning the (anticipated) commitment of agency workers in his organisation. If and in so far as the client, fulfilling such duties of disclosure, wishes to base this on information provided or to be provided by the agency, this provision of information will not exceed that which is made obligatory by the WOR.

#### **Article 23 Intellectual property**

1. On request of the client, the agency will have the agency worker sign a written statement in order to - in so far as is required and possible - ensure or as the case may be promote that all rights of intellectual ownership to the results of the activities of the agency worker accrue to, (will) be transferred respectively, to the client. If the agency owes compensation to the agency worker in relation hereto or must otherwise incur costs, the client owes an equal compensation or as the case may be equal costs to the agency.
2. The client will be free to enter directly into an agreement with the agency worker or to submit to him a statement for signature relating to the rights of intellectual ownership as referred to in paragraph 1 of this article. The client must inform the agency about his intention thereto and provide a copy of the agreement drawn up / statement made in this matter to the agency.
3. The agency is not liable towards the client for a penalty or judicially imposed penalty which the agency worker incurs or possible damage of the client as a result of the fact that the agency worker invokes any right to intellectual ownership.

#### **Article 24 Treatment**

1. The client is familiar with the legislation pertaining to whistle-blowers and guarantees that the agency worker will have access to the whistle-blowers' scheme in the same way as its own employees provided the client has such a scheme or such a scheme applies to it.
2. If the client has a complaints procedure concerning the treatment of employees it will guarantee that the agency worker will have access to this complaints procedure in the same way as its own employees. This only concerns complaints that do not concern good employment practices on the part of the agency. All of the above insofar as there are no other statutory obligations.

### **Chapter 3 General provisions**

#### **Article 25 Best efforts obligation and liability of the agency**

1. The agency is bound to make an effort to duly perform the assignment. However, the agency is not liable towards the client for damage and losses to the client, unless the damage and losses are the direct and demonstrable result of intentional or wilful recklessness on the part of the agency. Liability of the agency for indirect damage, also including loss of profit, loss of savings, damage to third parties, loss due to business interruption, penalties, damage due to loss or damage to data or reputational damage is in all cases excluded.
2. Every liability of the agency arising from the assignment and/or any other agreement with regard to the posting of an agency worker is limited for each and every occurrence to 10% of the client's fee to be charged according to these terms, the assignment (confirmation) and/or any other agreement in the framework of the assignment and/or any other agreement to which the damage is relating, or the sum of money covered and paid by the insurance company of the agency, if that sum is lower. The liability of the agency in relation to the other services referred to in these terms is for each and every occurrence limited to the fee for the assignment for which the agency will charge the client. If this article is applied, a series of connected incidents will count as one incident.
3. The client shall notify the agency of the damage in writing and demonstrate that the damage is the direct result of intent or wilful recklessness on the part of the agency as soon as possible, but no later than three months after the occurrence or the becoming aware of the damage. If the damage is not reported in writing within the aforementioned period of three months, the liability of the Contractor is excluded.

#### **Article 26 Client's liability**

The client who does not comply or complies in an unsound way with these general terms, assignments and/or any other agreement, is bound to compensate the agency for all damage that arises therefrom, without prior notice of default being required, and the client should indemnify the agency in this matter, if required. This does not prejudice the fact that the agency may present other claims, such as termination of the assignment. The provisions of this article have general applicability, either - if necessary supplementary - with respect to subjects for which the liability for compensation has yet been regulated separately in these general terms, assignments and/or any further agreements, or with respect to subjects for which this has not been the case.

#### **Article 27 Client's obligation to inform**

The client is obliged to provide all information and data that the agency needs in connection with offers and the execution of work and services. In addition, the client is obliged to make materials and products available on time so that the agency can properly carry out the assignment.

#### **Article 28 Confidentiality**

1. The agency and the client shall not provide any confidential information to third parties about or on the other party, their activities and relationships, which have come to their attention in accordance with the assignment, unless - and in such an event in so far as - provision of such information is required to perform the assignment properly or a statutory duty dictates them to disclose this information.
2. On request of the client, the agency will oblige the agency worker to maintain confidentiality about all he becomes aware of in the course of his activities, unless a statutory duty dictates the agency worker to give notification.

3. The client is free to oblige the agency worker directly to preserve confidentiality. The client must inform the agency about his intention thereto and provide a copy of the statement made / agreement drawn up in this matter to the agency.
4. The agency is not liable towards the client for a penalty or judicially imposed penalty or possible damage to the client as a result of violation of the duty of confidentiality by the agency worker.

#### **Article 29 Client's verification and retention requirement**

1. The client declares to be aware of the legislation and regulatory measures with regard to the determination of the identity of the persons who are employed by him. The client is bound to:
  - determine the identity of the candidate, the agency worker or any other person employed by him and shall for that purpose exercise a careful check of an original identity document, as referred to in Article 1 section 1, 2 and 3 of the Compulsory Identification Act ; and
  - determine whether the candidates recommended to him and the agency workers employed by him have the right to perform work in The Netherlands.
2. The client to which a foreign national was provided by the agency within the meaning of the Foreign Nationals (Employment) Act exclusively declares to be aware of Article 15 of this Act, including among other things that the client must receive from the foreigner a copy of the document as referred to in Article 1 section 1 to 3 of the Compulsory Identification Act with the commencement of the work. The client is responsible for a careful check of the document referred to above and he shall ensure whether he has received such copy of the identity document and included in his records prior to the posting. The agency is not responsible or liable for a possible fine imposed on the client in the framework of the Foreign Nationals (Employment) Act.
3. If no copy of the identity document of the foreigner is put into the possession of the client, the client is bound to notify the agency in writing hereof, within 14 days of the commencement of the activities by the agency worker. The burden of proof with regard to the prompt notice lies with the client. The client indemnifies the agency for all harmful consequences and sanctions arising from inadequate compliance of the requirement to keep records by the client as a result of the Foreign Nationals (Employment) Act and is bound to compensate the agency for all damage arising therefrom (inclusive of the costs including those for legal assistance), without prior notice of default being required.

#### **Article 30 Prevention of discrimination**

The client and the agency shall not make any prohibited discrimination, not on the grounds of religion, personal beliefs, political opinion, sex, race, nationality, heterosexual or homosexual orientation, civil status, disability, chronic disease, age or on whatever ground. The client and the agency will set or take into consideration relevant requirements exclusively for the job when providing and performing the assignment, and for the selection and handling of agency workers and candidates.

#### **Article 31 Privacy**

1. In the framework of the assignment, regular exchange of personal data will take place, in particular with regard to candidates and agency workers. The client and the agency are bound to deal confidentially with such information pursuant to the General Data Protection Regulation [abbreviated in Dutch as AVG] and related legislation and regulatory measures. The client will not require information from the agency, which the agency is not allowed to provide on the grounds of applicable legislation and regulatory measures. The client is responsible for the further processing of the information provided to him by the agency.

2. The client is responsible for the sole provision to the agency of information if and in so far as the client has the right to do so and has received the possibly required consent thereto from the persons in question.
3. The client expressly declares that he is familiar with the applicable laws and regulations regarding the processing of personal data. The agency and the client will enable each other to comply with the aforementioned legislation. The client will in any case only use the personal data obtained through the agency for the purpose for which they were obtained, will not keep them for longer than permitted by law and regulations and will ensure adequate protection of these personal data.
4. A privacy statement has been published on the agency's website. By entering into the assignment with the agency, the client commits himself to the agency's privacy statement.
5. The client shall indemnify the agency against any claims from candidates, agency workers, employees of the agency or other third parties towards the agency in relation to any violation by the client of the provisions of this article and shall compensate the connected expenses spent by the agency.

#### **Article 32 Website**

1. Each reproduction or (new) publication of (a part of) the website or of information about the agency referred to therein, is expressly forbidden, except with prior consent in writing from the agency.
2. The agency shall make efforts to keep the information on its website complete, correct and accurate, but it does not give any guarantees in this regard. It does not accept therefore any liability and is not responsible for any damage suffered by third parties and clients if the information on its website is incomplete and/or incorrect.

#### **Article 33 Offers and price changes**

1. All offers from the agency are always without engagement. Without prejudice to the authority of the agency to withdraw the offer until the moment that an assignment is concluded on the basis of this offer, the offer has a validity of 1 month, unless agreed otherwise.
2. The agency is entitled to change the price, fee or rate at any time. Insofar as it concerns a change in accordance with the service price index of the Dutch Central Agency for Statistics [abbreviated in Dutch as CBS], the agency is entitled to do so at any time without prior permission from the client being required. In other cases, the intention to change is notified in writing by the agency to the client and the client has the right to cancel within 7 days after receipt of the notification with effect from the date on which the price, fee or rate change of would come into force.

#### **Article 34 Invoicing and payment**

1. All prices, rates and expenses quoted by the agency are excluding the VAT. Unless otherwise agreed in writing or provided in these terms, the agency will invoice weekly.
2. The client is bound to pay each invoice from the agency within 14 calendar days of the invoice date, unless agreed otherwise in writing. The invoice has been paid if and when the amount due has been received by the agency.
3. The client and the agency will agree in writing on first demand of the agency that the client will issue an authorisation to the agency to debit the IBAN specified by the client for the amount of the invoice by direct debit collection within the agreed period of time. The client ensures that

there is sufficient balance in the IBAN specified by him and he will refrain from reversing any payment to the agency.

4. Only payments to the agency or third parties designated thereto by the agency in writing constitute a valid discharge. Payments by the client to any agency worker, by whatever title, are non-binding towards the agency and they cannot constitute a ground for debt redemption or settlement.
5. If an invoice is not paid within the agreed period of time referred to in paragraph 2, the client will be in default by operation of law as from the first day after the elapsing of the payment term and an interest of 7% per calendar year will be due on the unpaid amount. This interest is calculated per calendar month considering part of a month as one full month. The copy of the invoice sent by the agency to the client, possessed by the agency, constitutes conclusive proof of the liability to pay the interest and the date on which the payment of interest will commence.
6. If the client disputes the invoice in whole or in part, he must notify the agency hereon in writing within fourteen calendar days of the invoice date, giving accurate reasons. After this period of time, the right of the client to dispute the invoice expires. The burden of proof with regard to the timely dispute of the invoice lies with the client. Dispute of the invoice does not release the client from his payment obligation.
7. The client is not authorised to settle the invoice amount, regardless of this being disputed by him, with a counterclaim whether or not being justified and/or to suspend the payment of the invoice.
8. If in the opinion of the agency the financial position and/or the payment history of the client give cause to do so, the client is obliged on first demand of the agency to:
  - grant authorisation for direct debit collection as referred to in the third paragraph;
  - pay an advance; and/or
  - provide adequate security for his obligations towards the agency, by means of a bank guarantee, right of pledge or otherwise.Security may be required for either existing or future liabilities, an advance, however, may only be required for future liabilities. The scope of the required security and/or the required advance should be in proportion to the extent of the relevant liabilities of the client.
9. If the client does not pay the advance referred to in paragraph 8, does not provide the required security within the deadline set by the agency, does not issue the authorisation for direct debit collection or reverses as referred to in paragraph 3, the client is in default without further notice of default being required and the agency will have the right to suspend the performance of all its obligations arising from all assignments and/or any further agreements with the client or to cancel all assignments and/or any other agreements with the client directly, without being liable for compensation towards the client in relation to such suspension or cancellation. As a result of the cancellation, all claims of the agency will be immediately due and payable.
10. The client will be fully obligated to pay for all legal and other (collection) costs, incurred by the agency as a result of the non-compliance of the client with its liabilities on the grounds of this article. The compensation in the matter of the extrajudicial costs will be fixed at 15% of the principal sum due including VAT and interest (with a minimum of € 250.00 for each claim), unless the agency has demonstrably incurred higher costs. The fixed compensation will always be due by the client as soon as the client is in default and will be charged without further proof.

#### **Article 35 Applicable law and choice of court**

1. Dutch law will apply to these general terms, assignments and any other agreements.

2. All disputes arising from or in connection with any legal relationship between the parties will be exclusively resolved in first instance by the competent court of the district, where the agency has its registered office.

**Article 36 Concluding provisions**

1. If one or more of the provisions of these general terms are null and void or be annulled, the other provisions of the general terms, assignments and/or any other agreements will remain wholly in force in all other respects. The provisions which are not legally valid or cannot be applied by operation of law, will be replaced by provisions that correspond as much as possible to the purport of the provisions to be replaced.
2. The agency is entitled to transfer its rights and liabilities pursuant to the assignment, any other agreement and these terms to third parties. Unless otherwise agreed in writing, the client is not allowed to transfer his rights and liabilities pursuant to the assignment, any other agreement and these terms to any third party.
3. In special circumstances - anticipated or unanticipated - such as developments in the legislation and regulatory measures and in the CLA, the agency has the right to directly adjust or terminate the assignment or any other agreement, without being liable for compensation towards the client in connection with this change or termination, if in view of such special circumstances it cannot reasonably be required by the agency to continue the assignment or any other agreement under the same terms and conditions.