

Article 1 General

The following definitions apply in these General Terms and Conditions:

- client: the party giving the order;
 - contractor: **RSM Netherlands Due Diligence Services B.V.**;
 - work: all work for which an order has been given or which is performed or should be performed by the contractor for any reason directly related to the order, in the broadest sense and encompassing in any case the work as indicated in the order confirmation;
 - target: the business (or businesses) identified in the contractor letter as the business or entity we have been engaged to report on;
 - vendor: the business identified in the contractor letter as the vendor of the target;
 - professional: a person who is a salaried employee or is otherwise employed by the contractor, who is performing the assigned professional work for the contractor.
- All stipulations in these General Terms and Conditions are created with respect to all professionals and/or authorised persons, including the board of the contractor, as well as the directors of corporate practices and anyone who works for the contractor.
- agreement: the agreement of the order, whereby the contractor commits to complete work on behalf of the client;

All orders are, notwithstanding articles 404 and 407, paragraph 2 and 409 book 7 of the Dutch Civil Code, exclusively accepted and carried out through the contractor.

The board of the contractor and/or directors of the corporate practices and/or authorised representatives, as well as those working for or on behalf of the contractor, whether in employment or otherwise, are not personally bound or liable. The order is not terminated on their death, even if the order is granted with a particular person in mind.

Article 2 Scope of application

1. These General Terms and Conditions apply to all legal relationships between the client and the contractor, unless these terms are amended and the amendment is confirmed explicitly and in writing by both parties.
2. These General Terms and Conditions also apply to the contractor's affiliated companies and/or persons, natural or otherwise, for whom the order is actually being carried out. The (legal) client is responsible for providing these General Terms and Conditions to his affiliated companies and/or persons, natural or otherwise, in the event that the order is actually carried out for said parties.
3. The contractor's rules of conduct and professional practice are part of the agreement. The client declares that he shall fully respect the obligations arising therefrom for the contractor in full at all times.
4. Standard terms of the client do not apply, unless explicitly accepted by the contractor.
5. These General Terms and Conditions are also applicable to additional orders and follow-up orders.

Article 3 Conclusion of the agreement

1. All offers provided by the contractor are non-binding and issued exclusive of VAT. Offers only ever represent an indication of the fee to be charged, based on an estimate of the time to be spent and any offer, unless the contrary is shown, is provided under the assumption that the information provided by the client is absolutely correct and complete.
2. The agreement comes into effect at the time that the order confirmation, signed by both the contractor and client, is returned to the contractor. The order confirmation is based on the information provided by the client to the contractor at that time. The order confirmation is deemed to be a complete and accurate representation of the agreement.
3. The parties are free to prove that the agreement came into effect in another manner.
4. In the event that the contract is provided orally, or if the (yet to be) signed copy of the order confirmation has not yet been returned, the order is deemed to come into effect under these general terms at the time the client requests the contractor to begin the implementation of the order.
5. The agreement is entered into for a definite period, unless it emerges from the content, nature or scope of the granted order that it has been entered into for an indefinite period.
6. Each agreement comes into effect under the suspensive condition that the creditworthiness of the client has proven to be satisfactory and/or has been assured.

Article 4 Provision of information by the client

1. The client is required to provide all information and documents the contractor believes it requires to perform the granted order correctly, in a timely manner and in the desired form and manner, whether or not provided by third parties (amongst which target). Except where recluded by the content of the agreement, contractor shall not be obliged to perform a specific investigation of the accuracy and completeness of the information supplied to it.
2. The client warrants the accuracy, completeness and reliability of the information and documents provided to the contractor, even if such information and documents originate from third parties, in so far as the nature of the order does not provide otherwise.
3. In relation to the information supplied to contractor, regardless of the source thereof, there will be no auditing by contractor and no review or compilation will take place by contractor. There will also be no verification by contractor and no investigation will be made of the system of internal control procedures of the investigated target and no opinion will be expressed on these.
4. If and in so far as the client so requests, the records made available by the client shall be returned to him or her.
5. Additional fees and costs arising from any delay in the execution of the order due to the client failing to provide the necessary information and records either on time or in the proper manner shall be borne by the client

Article 5 Execution of the order

1. The contractor will determine the manner in which the granted order will be carried out, and by whom.
2. If the client has granted prior consent, the contractor can carry out more work than that is ordered and charge the client, unless such work is covered by the contractor's duty of care.
3. The use of titles by those responsible for the completion of the order or those who support the completion of the order, serves only to indicate the expertise of the persons concerned. Persons entitled to the title, Chartered Accountant or Accounting Consultant, may not act as an auditor. In the event that the provided figures are unaudited, unless explicitly agreed in writing, it will be necessary for an investigation into the trustworthiness of the relevant accounting to be performed.
4. The client is obliged to inform the contractor as soon as possible about facts and circumstances that may be important in connection with correctly carrying out the order.
5. If the client wishes to involve third parties in the execution of the order, he shall not proceed with doing so until an agreement thereto has been reached with the contractor. The terms of the preceding sentence apply correspondingly to the contractor.
6. In hiring a third party, the contractor will take the necessary care and confer with the client in selecting said third party as much as is customary or reasonable in the relationship to the client. The contractor is authorised to accept terms that apply in the relationship between the contractor and the third party or which are established by the third party.
7. The services to be delivered by the contractor will be performed to its best insight and according to the requirements of professional practice.
8. Regarding work intended to achieve a particular (financial) result, only an obligation of effort applies for the contractor.
9. The order will not include giving legal advice, expressing legal opinions, performing legal due diligence activities and/or the legal review of information received. If contractor at the request of the client provides comments on documents (such as memorandums of understanding, purchase agreements), such comments will relate exclusively to the matters to which the contractor's order relates and the comments made by contractor shall not relate to the legal aspects and/or to the appropriate legal wording of such documents. Contractor does not possess the expertise to comment on the legally correct formulation of documents; the client should consult legal advisors on such matters.
10. To the extent that the activities of contractor under the contract entered into cover an appraisal of prospective financial information, the activities of contractor will be restricted to comments on the basic data and assumptions underlying the aforementioned information, without there being any examination or evaluation of prospective financial information.
11. Contractor will not express any opinion on the question of whether it is desirable for the client to enter into a transaction in relation to the investigated target. It is the client's responsibility to make the necessary judgement, basing any decision on more information than that provided by the reports of contractor alone.
12. Reported findings and communications from contractor, in whatever form (such as, but not restricted to, e-mail messages, letters, presentations, draft reports, diagrams and spreadsheets) addressed to the client in connection with the preparation of the final report are provisional in nature and shall not be binding on contractor.

Article 6 Confidentiality and publicity

1. Except for an obligation of disclosure in accordance with any legal provision, (professional) rule, (European) directive and/or other regulation or in the event that the contractor acts for itself and/or for persons affiliated with or working for the contractor in a disciplinary, civil, administrative or criminal proceedings where such information may be important, the contractor is required to maintain confidentiality with regard to third parties and the contractor is not entitled to use the information provided to it by the client for purposes other than that for which it has been obtained.
2. Unless prior written permission has been granted by the contractor to that effect, the client shall not publicly disclose the content of reports, advice or other statements, written or otherwise, from the contractor that have not been compiled or prepared with the aim of providing the information set out therein to third parties. The client shall also ensure that third parties have no knowledge of the content described in the preceding sentence.
3. The contractor shall impose its obligations under this article on third parties that it hires.
4. This provision does not impede confidential collegial consultation or professional review, insofar as the contractor deems it necessary as part of the requirements of professional practice and/or careful execution of the order. The contractor will ensure that confidentiality is also maintained in this area, particularly regarding the third-party experts hired by the contractor, whether within its own organisation or otherwise.
5. Not contrary to the provisions of Article 6.1, the use of anonymous data relating to the main areas of the work performed for (potential) customers by the contractor will be considered, in so far as it is only modified to demonstrate the experience of the contractor.

Article 7 Intellectual property

1. The contractor reserves all rights in so far as they arise from law regarding intellectual products that it uses or has used as part of executing the client's order.
2. The client is expressly forbidden, in the broadest sense of the word or for the use of third parties, to reproduce, publish or exploit the products which include spreadsheets, computer programmes, system designs, working methods, recommendations, contracts/model contracts and other intellectual products of the contractor. Publication may therefore occur only after consent has been obtained from the contractor. The contractor has the right to reproduce such documents for use within its own organisation, where such use is in support of successfully completing the order. In the event of early termination, the foregoing provisions will remain in full effect.
3. The client is not permitted to provide resources for said products to third parties except to obtain an expert opinion regarding the work of the contractor.

Article 8 Remuneration

1. If the parties have not agreed otherwise in writing, the contractor's fee will be determined using an hourly rate multiplied by the number of hours worked, plus advances and VAT. The contractor's remuneration is not dependent on the outcome of the granted order.
2. The contractor reserves the right to adjust the agreed hourly rates on an annual basis each 1 January.
3. Insofar as a set price has been agreed upon for performing certain services and the provision of said services results in additional work or performances that cannot reasonably be considered to be included in the set price, the contractor will inform the client in a timely manner of the financial consequences of such additional work or performances. If the financial consequences imply a substantial increase of the set price, the client has the right to dissolve the agreement, provided the client has indicated this within 14 days after the above written notice.
4. The contractor's fee, including, if necessary, advances and claims of involved third parties, will mostly be monthly, quarterly, annually or after completion of the work charged to the client. VAT will be charged separately on all amounts owed by the client to the contractor.
5. The contractor is entitled to request the client for payment of a deposit or other security in connection with fees and disbursements or for expenses that will be incurred by the contractor before the assigned work shall be commenced or continued. Any advance payments will be deducted in the (final) invoice.

Article 9 Payment

1. Payment by the client must occur, without deduction, discount or settlement of debts, within the agreed deadlines, no later than thirty days from the invoice date in any event. Payment must be made in euros by means of a credit transfer to a bank account as indicated by the contractor.
2. If the client has not paid within the period stated in paragraph 9.1 and notwithstanding the contractor's other rights, the contractor will be, after he has provided the client with one reminder to pay, entitled without further notice of default to charge the client statutory business delay interest from the due date until the date of full payment. The client is not permitted for whatever reason to request a suspension or deduction against the outstanding claims of the contractor.
3. In the event of late payment, the contractor will be entitled to suspend execution of the work without the contractor being liable for any compensation for any damage incurred by the client.
4. If no payment is received after the payment period has elapsed and the contractor is obliged to take action to collect the debt, the client will owe extra-judicial collection charges of 15% of the amount due, with a minimum of € 125.00, or at any rate, the amount that the court determines, on the basis of the then current extra-judicial collection costs. If the contractor, after notice to that effect, must take action to collect the debt, the client will be required to pay, in addition to the principal and interest owed, all actual legal and extra-judicial expenses (accordingly, not only the liquidated costs) related to the relevant measures and proceedings, including the number of hours involved in said collection measure(s) at an hourly rate as indicated in article 8.
5. If the contractor has reason to believe that the client's financial situation or payment practices warrant it, the contractor is entitled to request the client to immediately provide a security or an additional security, in a form to be determined by the contractor. If the client neglects to provide the requested security, the contractor will be entitled, notwithstanding his other rights, to suspend further execution of the work immediately and all amounts owed by the client to the contractor for any reason will be due immediately.
6. In the case of an order given jointly, the clients, insofar as the work was performed for the joint clients, will be jointly and severally liable for payment of the invoice amount.

Article 10 Complaints

1. Complaints by the client on the grounds of a defect or shortcoming attributable to contractor in the execution of an order are barred if the client has not notified contractor of that defect or shortcoming in writing within sixty days after it has discovered or could reasonably have been expected to discover the defect and in any event after one year has expired since the action or omission took place which gave rise to the defect.
2. Complaints described in paragraph 1 will not suspend the client's obligation to make payments.
3. In the case of a complaint being upheld, the contractor has the option to either adjust the fee charged, correct or redo the rejected work at no charge, or (wholly or partly) not carry out further work on the granted order in return for compensation in proportion to the fee already paid by the client.
4. In the case of a complaint regarding the contractor's service, the client shall submit it to the advisor dealing with it. If this does not result in a satisfactory solution for the complainant, a different advisor will be designated by the contractor, at the complainant's request, to act as a complaints officer for the purpose of investigating the complaint, and to mediate where possible. Inasmuch as a complainant wishes to address a complaints officer directly, he may make this known. If desirable in the opinion of the client and contractor, the parties will initially attempt to achieve a simple dispute resolution that provides for arbitration or a binding recommendation.

Article 11 Delivery period

1. If the client owes an advance payment or must provide information and/or materials required for the execution of the work, the period in which the work must be completed will not be earlier than the time that payment is received in full or the information and/or respectively, the materials have been made fully available.
2. Periods within which the work must be completed are only to be considered definitive if this is explicitly agreed.
3. Unless execution is indisputably impossible, the agreement cannot be dissolved by the client due to the period having been exceeded unless the contractor does not fully carry out the agreement within a further period, made known to it in writing, after the agreed delivery period has passed. Dissolution will then be permitted in accordance with article 265, Volume 6 of the Dutch Civil Code.

Article 12 Termination/dissolution

1. The client and contractor may terminate the agreement at any time if it has been entered into for an indefinite period.
2. Termination must be notified to the other party in writing.
3. If and in so far as the contractor terminates the contract between the client and contractor by giving notice, he is required to make the reasons underlying the termination known and to do everything that is necessary in the circumstances in the interest of the other party.
4. In case the client cancels the agreement early, the client is obliged to compensate the contractor for all damages and costs incurred by the contractor. Such damage and costs include, but are not limited to all costs that the contractor has incurred in connection with the agreement and the (future) work, investments, losses resulting from lower capacity utilisation, as well as additional costs that they reasonably incur as a result of the early termination of the agreement (such as, inter alia costs to sub-contractors) unless there are facts and circumstances regarding the termination that are attributable to the contractor.
5. In the event of unforeseen circumstances within the meaning of Article 6:258 of the Dutch Civil Code the contractor is entitled to terminate the agreement with immediate effect in writing.
6. Both the client and the contractor shall be entitled to dissolve the agreement if the other party culpably fails to fulfil a substantial obligation under the agreement and is therefore in default (as defined in Article 6:81 of the Dutch Civil Code).
7. In the event of termination on the basis of Article 12.4, 12.5 or 12.6, the contractor retains the right for invoices to be paid for work already carried out and additional work already discussed. The payment obligation with respect to the completed work that has already been declared by the client as complete at the time of termination of the contract shall be due immediately and in full.

Article 13 Liability

1. All liability of the contractor and/or of persons affiliated with or working for the contractor, arising from or related to the execution of an order, is limited to a maximum of three times the annual fee received by the contractor as part of that order, but never more than the amount paid in the relevant case under one or more professional liability insurance policies taken out by the contractor, including the excess borne by the contractor relative to such policies. On request, information will be provided on professional liability insurance policies taken out by the contractor and the coverage provided. If for any reason no payment should occur under such insurance, all liability will be limited to the amount paid to the contractor in the relevant case in the relevant calendar year by the client, to a maximum of € 50,000.
2. The client indemnifies the contractor against claims by third parties, including reasonable costs of legal assistance, related in any way with the work performed for the client, unless resulting from gross fault and/or intent on the part of the contractor.
3. The client indemnifies the contractor against claims regarding directors' liability, including reasonable costs of legal assistance, related in any way with the work performed for the client, unless resulting from gross fault and/or intent on the part of the contractor.
4. The contractor is authorised to accept terms applying to its relationship with the third party or demanded by the third party, including any liability limitations or exclusion thereof, where the execution of the order by the third party is concerned. Claims by the client will at no time be directed against the third party directly.
5. All liability for actions, legal or otherwise, and shortcomings of any nature by third parties hired by the contractor is excluded.
6. The contractor is liable only for damage occurring during or at the time of the execution of the order if and insofar as the damage is the result of gross fault and/or intent on the part of the contractor.
7. Explicitly excluded from the personal liability of the contractor are those employed by or for him as chartered accountants, chartered surveyors, tax advisors or other employees.
8. Damage resulting from inaccuracies in texts or printed matter, or messages via electronic means, that have been checked or approved by the client, cannot be claimed against the contractor by the client.

Article 14 Electronic communication

The client and contractor may communicate with each other by electronic means during the execution of the order. Notwithstanding the terms of article 13 of the General Terms and Conditions, the contractor is not liable for damage incurred by the client as a result of the use of electronic means of communication, including, but not limited to, damage resulting from non-delivery or delay in the delivery of electronic communications, interception or manipulation of electronic communications by third parties or by software/hardware used to transmit, receive or process electronic communications, transmission of viruses and non-functioning or improper functioning of the telecommunications network

or other resources required for electronic communications, except inasmuch as the damage is the result of gross negligence and/or intent by the contractor. Data extracts from the computer systems of the contractor provide binding evidence of the (content of the) electronic communications sent by the contractor until such time as counter-evidence is provided by the client.

Article 15 Right of suspension

The contractor is authorised to suspend the fulfilment of all its obligations, including the issuing of documents or other items to the client or third parties, until such time as all claims due to the client are completely satisfied.

Article 16 Expiry period

1. The intention of the provisions of these General Terms and Conditions, whether explicitly or implicitly implied, is that they shall remain in force after the termination of this agreement and shall remain in force and bind the parties thereafter.
2. Where this agreement does not indicate otherwise, expired rights of claim and other rights of the client, on any basis with regard to the work carried out by the contractor, will in any event expire after 12 months from the time that the client became, or could reasonably have become aware, of the existence of such expired rights of claim and other rights.

Article 17 Applicable law and venue

1. All agreements between the client and the contractor to which these General Terms and Conditions apply are subject to Dutch law.
2. All disputes relating to agreements between the client and contractor, to which these terms apply, will be adjudged by the competent court in the region where the contractor is domiciled.
3. Notwithstanding the terms in paragraph 2, the client and contractor are entitled to consult a disputes committee in order to achieve an agreement.