

GENERAL TERMS AND CONDITIONS OF BAKER TILLY INTERIM FINANCIALS (NETHERLANDS) B.V. HIRING OF THIRD PARTIES



Article 1. GENERAL

- In the context of these General Terms and Conditions, the terms below written with a capital letter have the following meanings:
 - Professional Regulations:** the professional code and code of conduct to which a Professional is subject;
 - Documents:** all information or data made available by the Client to the Contractor, as well as all data produced or collected by the Contractor in the relation to performance of the Engagement / Contract, as well as all other information of any relevance to the performance or completion of the Engagement. The aforementioned information can be stored or not on corporeal or incorporeal data carriers and placed or not with third parties;
 - Appendix/Appendices:** Certificate of Conduct (VOG), confidentiality statement, copy of proof of identity, copy of insurance policy, extract from the Chamber of Commerce, copy of entrepreneurs check, copy of issue of VAT number;
 - Client(s):** The client(s) of the Contractor;
 - Engagement / Contract:** the contract for services under which the Contractor undertakes to the Client to perform certain Work;
 - Client:** Baker Tilly Interim Financials (Netherlands) B.V., with its registered office in Rotterdam (Chamber of Commerce number: 75934663);
 - Contractor:** Party that accepts the Engagement;
 - Party:** Client or Contractor individually;
 - Parties:** Client and Contractor together;
 - Professional(s):** The employees of the Contractor who are qualified in the field of the Work specifically described in the Engagement;
 - Work:** all work and activities to be performed by the Contractor for the Client for which an Engagement has been awarded and which have been accepted by the Contractor, as well as all work and activities ensuing therefrom for the Contractor.
- Baker Tilly Interim Financials (Netherlands) B.V. Baker Tilly Interim Financials (Netherlands) B.V. is an independent member of Baker Tilly International Limited ("Baker Tilly International"). Baker Tilly International is an English company. Baker Tilly International does not provide professional services to clients. Each company that is a member is a separate and independent legal entity and also acts as such. Baker Tilly Interim Financials (Netherlands) B.V. is not an agent for Baker Tilly International and has no authorisation to bind Baker Tilly International or to act on behalf of Baker Tilly International. No one from Baker Tilly International, Baker Tilly Interim Financials (Netherlands) B.V., or one of the other companies that are members of Baker Tilly International, shall be liable in any way towards one another for acts or omissions. The name Baker Tilly International and the accompanying logo are used under licence from Baker Tilly International Limited.

Article 2. APPLICABILITY

- These General Terms and Conditions apply to all offers, quotes, Engagements, legal relationships and Contracts, by any name, by which the Contractor binds itself / will bind itself to perform Work for the Client, as well as all Work ensuing therefrom for the Contractor.
- Derogations from and additions to the Contract and/or these General Terms and Conditions will apply only if they have been agreed explicitly and in writing in, for example a Contract or engagement confirmation.
- All Engagements will be subject to the terms and conditions set out in the Contract and the General Terms and Conditions. In case of contradictions in the provisions the following order will apply:
 - contract between the Client and its Client;
 - the engagement confirmation;
 - the General Terms and Conditions;
 - the Appendices.
- The Appendices form an integral part of the Contract.
- The Parties declare that they are aware that the Engagement does not result in an employment relationship within the meaning of Book 7 Section 610 of the Dutch Civil Code (BW) between the Professional(s) made available by the Contractor to the Client for the performance of the Engagement and the Client, not even if the tax authorities and/or industrial insurance board should proceed to impose assessments and suchlike as referred to in Article 10 of these General Terms and Conditions.
- These General Terms and Conditions will also apply to any additional or follow-up Engagements awarded by the Client to the Contractor, if Engagements of the same nature are concerned.
- The Contractor explicitly rejects the applicability of the Client's general terms and conditions.
- Those natural persons and legal entities that are involved directly or indirectly in whatever way in the provision of services to the Client by or on behalf of the Contractor, whether or not under an employment contract, may rely on the contents of and rights under the Contract and these General Terms and Conditions.
- The Client is entitled to amend these General Terms and Conditions unilaterally. The General Terms and Conditions amended by the Client will apply to the Contractor from thirty (30) days after the letter has given written notification of the amendment, unless the Contractor has informed the Client in writing within that period that it objects to the amendment. In the latter case the Contractor will be entitled to terminate the Contract at the time at which the amended General Terms and Conditions would be applicable to the Contract, but only if the amendment would entail an essential toughening of the obligations for the Contractor under the Contract. Notice of termination must be given in writing.

Article 3. CONCLUSION OF THE CONTRACT

- The Contract will be concluded (i) at the time the Contractor and Client have signed the engagement confirmation and it has been returned to and received by the Contractor, (ii) if no Contract is sent, at the time at which the Client has explicitly accepted an offer made by the Contractor orally or in writing and unchanged, and (iii) if the Engagement awarded by the Client is not preceded by an offer from the Contractor, at the time at which the Contractor has started performing the Engagement. The Contract will be based on the Documents provided by the Client to the Contractor prior to conclusion of the Contract.
- If the Engagement has been awarded orally, or if the Contract has not yet been signed, returned and received, the Engagement will be considered to have been concluded subject to the application of these General Terms and Conditions at the time the Contractor has started performing the Engagement at the Client's request.
- The Parties are at liberty to prove that the Contract was concluded in a different way.

Article 4. PERFORMANCE OF THE ENGAGEMENT/CONTRACT

- The Contractor will perform the work under the Engagement according to its own professional insight. The Client is entitled to give the Professional instructions. The Contractor warrants the quality, expertise and integrity of its Professional(s).
- The Contractor will perform the Engagement to the best of its knowledge and ability and with the utmost care, with due observance of the standards and quality requirements applicable within the Client's organisation. The Contractor warrants that the Professional(s) to be deployed by it in the context of the Engagement will use the correct working method(s) in their work. The Professional(s) may be replaced if this is in the interests of the performance of the Engagement. In this case consultations will be held between the Client, its Client and the Contractor.
- In performing the Engagement the Contractor will use data provided by or on behalf of the Client's Client. If the Contractor wishes to have data available which he considers necessary for adequate performance of the Engagement, it must inform the Client's Client and/or the Client of this in a timely manner.
- The Contractor must adhere to the applicable law, articles of association and resolutions of the bodies and other rules and regulations of the Client and its Client.
- On the individual initiative of each of them or on their joint initiative, the Contractor, Client and its Client will hold consultations in the following situations:

- if an essential change is made to the character, nature, contents or extent of the Engagement;
 - if a difference of opinion is noted regarding the manner of performing the Engagement;
 - if, for whatever reason, the Parties do not comply with their obligations to one another.
- The Contractor must inform the Client without delay if, for whatever reason, the scheduled Work cannot be performed.
 - If the Client is of the opinion (whether or not indicated by the Client's Client) that there are insufficiently qualified staff, the Client will be entitled to order the replacement of this staff and the Contractor will be obliged to replace them immediately at its own expense and risk.
 - The Contractor considers periods within which the Work must be completed to be deadlines.

Article 5. PROFESSIONAL AND OTHER REGULATIONS & NON-DISCLOSURE

- The Contractor must constantly cooperate fully and unconditionally in the obligations ensuing for the Client under the applicable statutory provisions and Professional and other regulations.
- The Contractor undertakes for the duration of the Engagement, as well as after the Engagement has ended for whatever reason, not to disclose to anyone at all any knowledge or information relating to the business affairs of the Client and/or to companies or enterprises affiliated with the Client and/or its Client, which became known to it during or as a result of the Contract and regarding which secrecy has been imposed on it, or regarding which it knows or should reasonably understand is confidential in nature.
- Contractor must in no way whatsoever retain documents, correspondence or copies thereof relating to the business affairs of the Client and/or companies or enterprises affiliated with the Client and/or its Client that are in its possession in connection with the provision of services longer than necessary to comply with its obligations under the Engagement. The Contractor will be obliged in any case to hand over such documents, correspondence or copies thereof at the end of the Engagement to the Client and/or the Client's Client immediately at the request of the Client and/or the Client's Client.
- The Contractor will be prohibited, either during the term of the Engagement or after it has ended, from making any statements in any way to third parties, directly or indirectly, in whatever form and on whatever basis, of or concerning any particulars relating to the Client and the companies or enterprises affiliated with the Client and/or its Client, subject to payment to the Client of an immediately due and payable penalty at once without any demand letter or notice of default of €25,000, notwithstanding the Contractor's obligation to pay the Client full compensation in this regard, if this should be more than the amount of said penalty.
- The Contractor must not mention the Engagement in publications or advertisements and must not use the name of the Client or its Client as a reference unless prior written permission has been given to do so.
- The Contractor must see to it that the Professional(s) it has engaged in the performance of the Engagement observe the obligations in accordance with the provisions in this article.

Article 6. INTELLECTUAL PROPERTY

- Unless explicitly agreed otherwise in writing, all intellectual property rights in relation to the services provided by the Contractor and/or items used or provided by the Contractor will remain vested in the Client or its licensors. The Contractor recognises that the agreed fee constitutes adequate compensation for any relinquishment of rights to the Client in this context.
- The Contractor will be explicitly prohibited - without prior written permission from the Client - from reproducing, disclosing or exploiting, with or without the engagement of third parties, the intellectual products in which intellectual property rights of the Client (or its licensors) and/or its Client (or its licensors) are established, also including computer programs, system designs, working methods, recommendations and (model) contracts.

Article 7. FEE AND COSTS

- For the Work actually to be performed by the Contractor on the basis of the Engagement, the latter will be entitled to a fee, which will be determined between the Parties and included in the Contract.
- The fee for performance of the Work is based on a working day as customary at the Client's Client. The Contractor must not charge more than two 4-hour day sessions for a working day, or the number of hours per working day if this is less than 4 or 8 hours, respectively, unless the Contractor and Client have made different agreements between them on this.
- Unless otherwise agreed, the rates of the Contractor are all-in rates excluding turnover tax and including travel or other expenses. Costs will be reimbursed only if this has been agreed in the Contract.
- If the Contractor is in default of compliance or fails to comply with one or more of its obligations in relation to the Engagement, all reasonable costs to obtain satisfaction in or out of court - without any right to reduction or setoff - will then be payable by the Contractor.
- Rates must not be adjusted in the interim.

Article 8. HOURLY TIME SHEET AND PAYMENT

- The weekly hours worked by the Contractor will be accounted for on an hourly time record form provided for that purpose. This hourly time record form will be provided by the Contractor, Client or its Client.
- The Contractor must see to it that the Client's Client signs the hourly time sheet of each month within 3 working days and must see to it that the approved hourly time record forms are sent to the Client no later than 3 working days after the end of a month.
- Invoicing is based on the monthly time record forms signed by the Client's Client.
- If the hours worked recorded on the relevant hourly time record form are put in possession of the Client in a timely manner, the Client's Client will pay the invoices within 30 days. Failing timely payment, the Client will be in default after receiving written notice of default.

Article 9. SICKNESS AND ABSENCE

Should Professional(s) be sick or unable to attend, the Contractor must provide for appropriate replacement. The Contractor must inform the Client without delay of absence, the expected duration of the situation and the name of the possible substitute. The Contractor must provide for replacement by Professional(s) of a comparable level of education and experience, warrants the quality of the substitute and must provide for the correct administrative settlement of the replacement. If one or more Professionals are absent without the Contractor having provided for replacement or without the Client having approved the replacement, no right to payment will exist. The Contractor must not charge any costs for the replacement of the Professional(s) for training or transfer.

Article 10. TAX CLAIMS, SOCIAL SECURITY CONTRIBUTIONS

- The Contractor will receive the amount specified in Article 7 as its fee for the Work performed by it or on its behalf. Any income tax claims, social security contributions due, penalty and/or interest under this Contract will without exception be payable in full by the Contractor.
- The Contractor indemnifies the Client for all obligations in relation to income tax, pension or any obligation whatsoever relating to Professionals of the Contractor. If the Client is nevertheless obliged under this Contract for whatever reason to pay income tax, with or without retroactive effect, for Professionals of the Contractor, the Contractor will reimburse the Client in full for the amounts actually paid by the Client immediately at the Client's request.
- The Contractor indemnifies the Client for all obligations in relation to social security contributions, including the employee's share or any other obligation relating to employees of the Contractor. If the Client is nevertheless obliged under this Contract for any reason to pay social security contributions, with or without retroactive effect, for employees of the Contractor, the Contractor will reimburse the Client in full for the amounts actually paid by the Client immediately at the Client's request.
- Should the legal relationship unexpectedly be considered an employment relationship between the Client and the persons made available by the Contractor, the Contractor will also have to reimburse the Client for the VAT wrongly invoiced to and paid by the Client.

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Article 11. RESPONSIBILITIES OF THE CLIENT

1. The Contractor indemnifies the Client for claims and entitlements of third parties (including the Client's Client).
2. The Contractor must insure itself adequately and remain adequately insured during and after the term of the de Engagement.

Article 12. TERM, EXTENSION AND TERMINATION

1. The Engagement is entered into for a fixed term and for the period as specified in the Contract.
2. The Engagement will end by operation of law by expiry of the agreed period, without notice of termination by one of the Parties being required, unless the Client and Contractor have agreed otherwise in writing.
3. The Client will be able to terminate this Contract at all times by giving the other Party written notice, with due observance of a notice period of at least 1 month. Termination is possible only at the end of a calendar month.
4. The Parties will have the right to terminate the Engagement with immediate effect without stating reasons, if:
 - i) one of the Parties declared insolvent;
 - ii) The Client or Contractor is granted (temporary) suspension of payment;
 - iii) one of the Parties is liquidated;
 - iv) prejudgment attachment is imposed on a substantial part of the movable and/or immovable property or on a different type of possessions of one of the Parties;
 - v) force majeure prevents one of the Parties from complying with its obligations in relation to performance of the Engagement;
 - vi) one of the Parties is sentenced in a final and conclusive judgment to a custodial sentence (suspended or not) for a criminal offence;
 - vii) one of the Parties acts in conflict with the law, the articles of association of one of the Parties, the resolutions and guidelines of the bodies of one of the Parties and/or professional ethics;
 - viii) one of the Parties has provided incorrect information regarding its capacity;
 - ix) one of the Parties continues to breach compliance with its obligations.
5. If the Client terminates the Engagement, whether or not in accordance with article 12.4, it will not be liable to the Contractor for any compensation.
6. Barring serious reasons, to be at the Client's discretion, where the interests of the Engagement so require, the Contractor will consent to extension of the term of the Engagement for as long as reasonably necessary.
7. If extension of the Engagement is up for discussion, the Parties and the Client's Client will hold further consultations on the matter and make written agreements.

Article 13. NON-SOLICITATION CLAUSE

1. During the term of and within a time frame of a year after termination of this Contract - irrespective of which way or on whose initiative the Contract is terminated - the Contractor will be prohibited from working in any way, directly or indirectly, alone or together with others, paid or unpaid and in whatever legal form, in the field of the work performed in the context of the Engagement for the Client and/or former Client of the Client or the companies or enterprises affiliated with it in which the Contractor was involved in the performance of its Engagement.
2. Should paragraph 1 of this article be breached, the Contractor will have to pay the Client a penalty immediately due and payable in a lump sum without a demand letter or notice of default of €25,000, notwithstanding the Contractor's obligation to pay the Client full compensation in the matter, if this should be more than the amount of said penalty.
3. The Contractor must see to it that the Professional(s) engaged by it in the performance of the Engagement observe the obligations in accordance with the provisions in this article.

Article 14. ELECTRONIC COMMUNICATION/SERVICES AND PERSONAL DATA

1. During performance of the Engagement the Client and Contractor can communicate with each other by electronic means and/or use electronic storage (such as cloud applications).
2. The data extracts from the computer systems of the sender will constitute conclusive proof of the contents of the electronic communication sent by the sender until the time that evidence to the contrary is delivered by the recipient.
3. The Client and Contractor will not be liable to each other for damage and/or losses that may be incurred by one or each of them as a result of the use of electronic means of communication, networks, applications, electronic storage or other systems including - but not limited to - damage and/or losses as a result of non-delivery or delay in delivering electronic communication, omissions, distortion, interception or manipulation of electronic communication by third parties or by software/hardware used for sending, receiving or processing electronic communication, transmission of viruses and failure or improper functioning of the telecommunications network or other means needed for electronic communication, except in so far as the damage and/or loss is the result of deliberate intent or gross negligence. The foregoing will apply as well to the use the Contractor makes of this in its contacts with third parties.
4. The Parties will do or omit everything that may reasonably be expected of each of them to prevent the occurrence of risks or damage that could arise for one or each of them as a result of using electronic means.
5. The provisions of a separate processing agreement, if any, to be concluded between the Parties will be higher in rank than these General Terms and Conditions.

Article 15. OTHER STIPULATIONS

1. These General Terms and Conditions have been drafted in both Dutch and English. In case of lack of clarity, difference or contradiction between the English and Dutch text, the Dutch text will be binding.
2. Except with prior written permission from the Client, the Contractor's claims against the Client will not be transferable, and the Contractor will not be allowed to transfer claims against the Client, on any basis whatsoever. This limitation also has effect under property law as referred to in Book 3, Section 83 subsection 2 of the Dutch Civil Code (BW).

Article 16. APPLICABLE LAW AND CHOICE OF FORUM

1. The Contract and these General Terms and Conditions shall be governed by Dutch law.
2. All disputes will be settled by the competent court in the district where the Client has its registered office.
3. The provisions in the first and second paragraphs of this article do not affect the Parties' possibility to bring a dispute before a disciplinary tribunal or any professional organisation.

Article 17. NULLITIES REPAIR CLAUSE

1. Should any provision of these General Terms and Conditions or of the Contract be wholly or partially null and void and/or invalid and/or unenforceable, as a result of any statutory provision, court judgment or otherwise, this will have no consequences whatsoever for the validity of all other provisions of these General Terms and Conditions or the Contract.
2. Should any provision be wholly or partially null and void and/or invalid and/or unenforceable, by virtue of the first paragraph of this article, instead of the wholly or partially null and void or nullified provision, a provision with the same purport will be read that is valid and approaches the wholly or partially null and void or nullified provision as closely as possible. The preceding sentence does not preclude the Parties from consulting with each other in order to replace the wholly or partially null and void or nullified provision by a provision that approaches the wholly or partially null and void or nullified provision as closely as possible.

Article 18. PROCESSING OF PERSONAL DATA

If the processing of personal data is involved in the relationship between the Client and Contractor, and one of the parties can be considered the processor (within the meaning of the General Data Protection Regulation) and the other the controller, the parties will then conclude a separate processing agreement.