

Article 1 General

The following definitions apply in these General Terms and Conditions:

- client: the party giving the order;
- contractor: RSM Netherlands Corporate Finance B.V.;
- transaction: an agreement or multilateral legal act – in whatever form and under whatever title – aimed at:
 - a. a merger of companies,
 - b. transfer or disposal ("sale") of a controlling share or an interest in (shares of) a company,
 - c. acquisition ("purchase") of a controlling share or an interest in (shares of) a company, or
 - d. funding of a company or companies, regardless of the way in which that merger, transfer / disposal, acquisition or funding occurs;
- transaction date: the date on which the transaction comes into effect, namely the date on which agreement for the transaction between the client and one or more third parties is reached;
- transaction amount: the total amount payable by one or more third parties to the client or by the client to one or more third parties on the basis of the completion of the transaction, regardless of the way in which the amount is composed or settled;
- transaction fee: the fee payable by the client to the contractor for completion of the transaction;
- agreement: the agreement of the order, whereby the contractor commits to complete work on behalf of the client;
- 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;
- 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.

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 professional corporations 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.
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. If and to the extent that the client requests, the provided documents will be returned to the client.
4. Additional charges and additional fees arising from delays in the execution of the order caused by non-provision, late provision or improper provision of the required information and documents are at the client's expense.

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.

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.
6. After completion of the transaction and notwithstanding the provisions in this article the contractor is entitled to communicate the services it has provided to the client via the media or otherwise. The content of the public statements as well as the manner in which they are stated requires prior written approval from the client, which cannot reasonably be denied to the contractor.

Article 7 Exclusivity

While the order is being carried out, the client shall refrain from any direct or indirect contact with third parties, in so far as that contact has a relation to or may have an influence on the conclusion of the transaction or the possible willingness to conclude the transaction. If, other than through the contractor, the client is approached by a third party regarding the conclusion of the transaction or the possible willingness to conclude the transaction, he shall promptly bring this to the attention of the contractor. While carrying out the order the client will refrain from providing a similar order to a third party.

Article 8 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 9 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 be monthly, quarterly, annually or after completion of the work charged to the client, unless the client and the contractor have agreed otherwise. 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 10 Transaction fee

General

1. If the parties agree to a transaction fee in addition to the fee referred to in Article 9, the following provisions apply:
 - a. The amount of the transaction fee will be determined on the basis of the transaction amount and with due regard for that which is agreed between the parties concerning the calculation of the agreed transaction fee.
 - b. The transaction fee is payable by the client on the transaction date.
 - c. The payment of the transaction fee is also payable by the client if within two years after termination of the order a transaction is still created whereby the client – directly or indirectly – is a concerned party, and the transaction is partly prepared by the contractor from work carried out during this order.
 - d. The word 'client' used in this article is also understood to mean all (legal) persons or companies linked to the activities of the client in jointly forming any undertakings.
 - e. In all cases where the transaction does not come into effect or is cancelled for any reason whatsoever, the client shall be responsible for payment of the fee to the contractor for all work performed by the contractor in support of the order, whereupon what has been determined in Article 9 is applied.

Merger transaction fee

2. If the order relates to a merger of companies, the fee also consists of an amount equal to an agreed percentage of the transaction amount, notwithstanding the transaction amount determined in Article 1, composed from the value of the shares of the two merged companies, or a fixed transaction fee as stated in the offer or order confirmation.

Sales transaction fee

- 3a. If the order involves a transfer (sale) of a controlling share or a (minority) interest in (shares of) a company, the fee can also consist of an amount equal to an agreed percentage of the transaction amount or a fixed transaction fee as stated in the offer or order confirmation.
- 3b. The transaction amount shall be determined based upon the disposal of the entire interest in the applicable company. In case the client, notwithstanding that which is understood from the granting of the order, retains a share of interest in the company, the transaction amount shall, in order to calculate the transaction fee, be increased by the value of the share of interest in the company that is not transferred, whereby as appropriate the value is based upon the price per share paid by the third party multiplied by the number of shares transferred. The above applies in a similar manner for the disposal of a company including a transfer of assets and liabilities.
- 3c. Included in the amount used for the calculation of the transaction fee will be all monetary benefits payable to the client as a result of the transaction, now or in the future. Listed below will be any remuneration understood to be payable to the client in connection with the transaction from rent, management or other services, in so far as the additional fees have been paid above normal (business) remuneration, and/or all dividends paid to the client and/or all dividends or benefits from the reserves of the company that (in the broadest sense) are a subject of the transaction, other benefits that occurred after the last adopted (and possibly already made available to the contractor) balance sheet date (but before signing the offer or order confirmation) financial statements of the aforementioned company and/or additional (interest) fees in connection which will be paid to the client upon the completion of the transaction.

Purchase transaction fee

- 4a. If the order involves the transfer or disposal ("sale") of a controlling share or an interest in (shares of) a company, the fee can also consist of an amount equal to a percentage agreed by both parties of the transaction amount or a fixed transaction fee as stated in the offer or order confirmation.
- 4b. Included in the amount used for the calculation of the transaction fee in paragraph 4a above will be all monetary benefits payable as a result of the transaction to the client, now or in the future. Listed below will be any remuneration understood to be payable to the client in connection with the transaction from rent, management or other services, in so far as the amount due to be paid is above normal (business) remuneration and/or all fees payable to the client in connection with the transaction – not depending upon results, from which payment first takes place after the transaction date and/or all additional (interest) payments in connection with the completion of the transaction which shall be settled by the client.

Financing transaction fee

5. If the contract relates to the structuring and arranging of financing, the remuneration can also consist of an amount equal to an agreed percentage of the transaction amount, that in this article consists of the total attached assets (e.g. risk-bearing assets plus all other interest bearing debts or a mix of risk and interest-bearing assets) or a fixed transaction fee as stated in the offer or order confirmation.

Article 11 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 11.1 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.
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 9.
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 12 Complaints

1. Complaints regarding the performance of work carried out and/or the invoice amount must be provided in writing to the contractor within 60 days of the posting date of the documents or, upon discovery of the information that is the subject of the client's complaint, within 60 days of that discovery if the client demonstrates that the information could not have been discovered earlier. Only complaints submitted in writing can be handled.
2. Complaints as 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 adviser dealing with it. If this does not result in a satisfactory solution for the complainant, a different adviser 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 13 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 14 Termination/dissolution

1. Client and contractor may terminate the agreement at any time. If the agreement is terminated before the order is completed, the provisions of Article 10 with respect to the payment of the transaction fee will apply.
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 14.4, 14.5 or 14.6, 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 15 Liability

1. If the contractor is found to be in fault as defined in Article 15.6, the contractor is liable for such damage up to a maximum amount of the contractor's fee for that assignment. An assignment with a duration exceeding six months will be subject to a limitation of liability for such damage up to a maximum amount of the contractor's fee for that six months but never more than the amount paid by the contractor's relevant professional liability insurance, plus the amount of the excess that is borne by the contractor in connection with the insurance policy. 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 is received

from such insurance, all liability will be limited to the amount paid to the contractor in the applicable case in the applicable calendar year by the client, up to a maximum of €50,000.

2. The client indemnifies the contractor against claims by third parties, including reasonable cost for legal assistance, related in any way with the work performed for the client, unless resulting from gross negligence and/or intent on the part of the contractor.
3. The client indemnifies the contractor against claims regarding directors' liability, including reasonable cost of legal assistance, related in any way with the work performed for the client, unless resulting from gross negligence 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) in as much as 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 (legal) actions 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 resulting damage is caused by gross negligence and/or with 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 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 16 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 15 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 17 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 18 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 6 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 19 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 and which are not within the jurisdiction of the district court, 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.