



## **GENERAL TERMS AND CONDITIONS FOR POSTING AND RECRUITMENT & SELECTION**

### **INTRODUCTION**

The general provisions of Part A of these general terms and conditions apply to all legal relationships of and with StudentFlex B.V., TalentSparkB.V., and Talent Sourcing Partner B.V. If an Agreement (also) relates to the Posting of Flex Workers, the specific provisions of Part B apply, combined with the general provisions of Part A. If an Agreement (also) relates to recruitment and selection, the specific provisions of part C apply, combined with the general provisions of part A. In the event of any contradictions, the more specific provisions take precedence over the general provisions.

### **PART A: GENERAL PROVISIONS**

#### **Article 1. Definitions**

- 1.1. General Terms and Conditions: these general terms and conditions.
- 1.2. Contractor: StudentFlex B.V. (Chamber of Commerce number: 56899688), TalentSpark B.V. (Chamber of Commerce number: 51207265) and Talent Sourcing Partner B.V. (Chamber of Commerce number: 70426031)
- 1.3. Flex worker: any natural person employed by the Contractor on the basis of an agency contract pursuant to Article 7:690 of the Dutch Civil Code, or the natural person employed by another employer who is subsequently made available to the Partner by or through the Contractor to perform work under the management and supervision of the Partner.
- 1.4. Prospective Flex Worker: a natural person recruited and selected by the Contractor, who has been introduced to the Partner by the Contractor in the context of one or more positions and/or vacancies within the Partner's organisation, regardless of whether the Partner was already directly or indirectly acquainted with the Prospective Flex Worker (in whatever capacity).
- 1.5. Collective Agreement: the collective agreement applicable to the employment contract between the Contractor and the Flex Worker, being the collective labour agreement for temporary agency workers, concluded by the NBBU.
- 1.6. Posting: the deployment of a Flex Worker by the Contractor in the context of an Agreement, to perform work under the management and supervision of the Partner. Posting includes regular posting.
- 1.7. Services: all services to be provided by the Contractor to the Partner under an Agreement.
- 1.8. Equivalent remuneration: the total package of employment conditions of the Flex Worker that is at least equivalent to the total package of employment conditions of an employee employed by the Partner in the same or an equivalent position, as referred to in Article 21 of the Collective Labour Agreement.
- 1.9. Potential: any natural person who can be nominated by the Contractor to enter into an employment contract with the Partner.
- 1.10. Quotation: any verbal or Written offer from the Contractor to the Partner.
- 1.11. Partner: any natural or legal person who contracts or intends to contract with the Contractor.
- 1.12. Client Rate: the rate payable by the Partner to the Contractor, excluding a transition fee and surcharges, reimbursement of costs and VAT. The rate is charged per hour, unless stated otherwise.
- 1.13. Agreement: any agreement, in any form whatsoever, between a Partner and the Contractor, any amendment or addition thereto, as well as all (legal) acts in preparation and execution of that Agreement by the Contractor.
- 1.14. Parties: reference to the Contractor and the Partner together.
- 1.15. Writing: in writing, or made available digitally, by e-mail or otherwise electronically.



## **Article 2. Scope**

- 2.1. These General Terms and Conditions apply to all Quotations and legal relationships of and Agreements with the Contractor. These General Terms and Conditions also apply to any further or follow-up agreements between the Contractor and the Partner. The Partner is deemed to agree to this.
- 2.2. Deviations from these General Terms and Conditions are valid only if expressly agreed on in Writing by the Parties. In that case, the deviating provisions expressly agreed in Writing prevail. The applicability of purchasing or other general terms and conditions of the Partner is expressly rejected.
- 2.3. If one or more provisions in these General Terms and Conditions are wholly or partially void or voided at any time, the other provisions in these General Terms and Conditions will remain fully in force. In that case, the Parties will enter into consultations in order to agree on new provisions to replace the void or voided provisions, which are in keeping with the intention of the Parties when drawing up the void or voided provision.
- 2.4. The Contractor not always requiring strict compliance with these General Terms and Conditions does not imply that the provisions thereof do not apply, nor that the Contractor would to any extent lose the right to require strict compliance with the provisions of these General Terms and Conditions in other cases.
- 2.5. The Contractor deviating from these General Terms and Conditions in one or more Agreements with the Partner does not imply that this deviation also applies to previous or subsequent Agreements between the Contractor and the Partner.
- 2.6. The Contractor has the right to change these General Terms and Conditions from time to time, provided that the Contractor observes a reasonable notice period towards the Partner. In the absence of a protest from the Partner within 21 days after having been notified, the amended General Terms and Conditions will apply to all new Agreements from the day of notification, as well as to all current Agreements insofar as they are executed after the date of notification.
- 2.7. The records maintained by the Contractor (including emails and digital scans of, for example, Agreements or invoices) shall constitute full evidence vis-à-vis the Client. This constitutes an evidentiary agreement.

## **Article 3. Quotes and conclusion of the Agreement**

- 3.1. All Quotations from the Contractor are without obligation and can be revoked by the Contractor at any time, even if the Quotation contains a term for acceptance.
- 3.2. The Contractor is not obliged to honour its Quotation if the Partner could reasonably have understood that the Quotation, or part thereof, contains an obvious mistake or error.
- 3.3. An Agreement is concluded when the Partner:
  - places a (head-hunting) assignment with the Contractor;
  - accepts the Contractor's Quotation;
  - signs a Written Agreement with the Contractor;
  - enters into dialogue with a Prospective Flex Worker or Prospect.

If the Partner places an assignment with the Contractor without it being preceded by a Quotation, or if the Quotation has not (yet) been signed by both Parties, the Agreement is deemed to have been concluded when the assignment has been confirmed by the Contractor or when the Contractor starts with the execution of the assignment, for example (but not limited to) when the Contractor enters into dialogue with a Prospective Flex Worker or Prospect. The Contractor is at all times entitled to replace a (proposed) Prospective Flex Worker, Flex Worker or Prospect.

## **Article 4. Payment**

- 4.1. Unless otherwise agreed in Writing, payment of all amounts owed by the Partner to the Contractor must be made by the Partner within 14 days after the (partial) invoice date, in a manner to be specified by the Contractor and in the currency in which the invoice was issued. The value date on the bank statement is decisive in determining the date of payment.



- 4.2. Only payment to the Contractor or to a third party expressly designated in Writing by the Contractor will clear the debt. Payments by the Partner to Flex Workers or Prospects, under whatever title, or the provision of advances to Flex Workers or Prospects are non-binding towards the Contractor and can never provide grounds for settlement or payment on any grounds whatsoever.
- 4.3. If the Partner has any objections to the invoice received, the Partner must notify the Contractor of these objections in Writing within 7 days of the invoice date, failing which the invoice will be deemed correct.
- 4.4. The Partner is never entitled to suspend its obligations towards the Contractor and/or to offset these against any of its own claims against the Contractor. Objections to the amount of an invoice or the Services provided never give the Partner the authority to suspend or offset payment.
- 4.5. If the Partner fails to pay the invoice within the payment term, the Partner will be legally in default, without prior notice of default being required. In that case, the Partner owes contractual interest of 1% per month, or part of a month, on the amount owed and due by the Partner from the date of default, unless the statutory commercial interest is higher, in which case the statutory commercial interest applies. The interest on the amount due will be calculated from the date the Partner is in default, until the date of full settlement of the outstanding amount.
- 4.6. All costs, both judicial and extrajudicial, that the Contractor must incur to enforce its rights will be payable entirely by the Partner. Compensation for extrajudicial costs will be fixed at 15% of the principal amount due, including VAT and interest, unless the Contractor has demonstrably incurred more costs, in which case the Contractor can claim that surplus from the Partner as well, subject to a minimum of € 500 per claim. This compensation will always be payable by the Partner as soon as the Partner is in default and will be charged without the need for any further proof.
- 4.7. Unless otherwise indicated by the Contractor, payments from the Partner will always be deducted from costs and interest due first (in this order) and then from the principal sums and accrued interest, with older claims taking precedence over new ones, regardless of whether the Partner has a designated a different order for the allocation of the payment. The Contractor may refuse full repayment of the principal amount if it does not include the interest that has fallen due, the accrued interest and collection costs. If the Contractor deems it desirable and, in any case, if the Partner is in default of any payment obligation, for whatever reason, the Contractor is entitled, after entering into an Agreement, in deviation from the agreed payment arrangement, to demand payment in advance or to demand security to cover the payment obligations of the Partner. The Partner must comply with this immediately on request of the Contractor.
- 4.8. If the Agreement has been concluded with more than one Partner, all Partners are jointly and severally liable to fulfil their payment obligations under the Agreement (regardless of who the invoice has been made out to).
- 4.9. If the Partner fails to comply with Article 4.1, or fails to comply with a request from the Contractor as referred to in Article 4.7, the Contractor will be entitled:
  - a. to terminate the Agreement with the Partner in whole or in part, without notice of default being required. In that case, if the Contractor incurs costs or in any way suffers damage or loss as a result of non-payment by the Partner, the Partner will be liable for the damage or loss and costs and must compensate or reimburse these; or
  - b. to suspend in whole or in part its obligations towards the Partner under the Agreement.

#### **Article 5.      Fear of non-fulfilment**

- 5.1. If, after concluding the Agreement, the Contractor becomes aware of circumstances that give good reason to fear that the Partner will not fulfil one of its obligations, or fail to do so correctly and/or on time, all payment obligations of the Partner towards the Contractor, for whatever reason, will become immediately due and payable. This applies, among other things (but not limited to) in the event of bankruptcy or suspension of payments on the part of the Partner or



when an application for one of these measures with regard to the Partner is pending, in the event of a decision to dissolve or merge has been taken by or on behalf of the Partner, or if a prejudgment attachment or executory attachment has been or will be imposed on any part of the Partner's assets, or if the Partner fails to fulfil any other payment obligation towards the Contractor. The Contractor is at all times entitled to demand immediate payment of or security for these enforceable claims.

- 5.2 In that case, the Contractor will be entitled to suspend the fulfilment of its obligations towards the Partner until payment and/or security for all payment obligations has been made or provided. If the Contractor decides to do so, it is in no way obliged to compensate the Partner for damage or loss and/or costs that may arise in any way as a result.
- 5.3 The Partner will be liable for all damage or loss suffered by the Contractor resulting from a situation as described in paragraphs 1 and 2 of this article.

## **Article 6. Liability**

- 6.1 If established in court or otherwise that the Contractor is liable to the Partner for damage or loss suffered in connection with the Agreement, or on the basis of an unlawful act, or any other basis, then this liability, in its entirety, including any payment obligation under Article 6:230 and/or Article 6:271 of the Dutch Civil Code, will at all times be limited to what is regulated by this provision:
  - a. The total liability of the Contractor due to an attributable shortcoming in the performance of the Agreement, or on any legal basis whatsoever, expressly including any shortcoming in the fulfilment of an obligation agreed with the Partner, will be limited to compensation for direct damage or loss. Direct damage or loss is only taken to mean damage or loss resulting from damage or destruction of an item of property (repair costs or replacement costs).
  - b. The Contractor will never be liable for indirect damage or loss suffered by the Partner, including (but not limited to): consequential damage or loss, lost profits, lost savings, impaired goodwill, damage or loss as a result of claims from customers of the Partner, lost income, lost turnover, missed savings, damage or loss due to business interruptions and other types of interruptions. Liability of the Contractor in connection with the destruction or loss of data or documents is also excluded;
  - c. The Contractor will never be liable for damage or loss caused by the Contractor relying on incorrect data/files/tools and information provided by or on behalf of the Partner;
  - d. the Contractor's liability, including any payment obligation under an obligation to reverse and any payment obligation under Article 6:230 of the Dutch Civil Code towards the Partner, will at all times be limited to the amount that the Contractor's liability insurance pays out in the relevant case;
  - e. in the event that the Contractor's liability insurance, for whatever reason, does not pay out, the Contractor's liability, including any payment obligation under Article 6:230 and/or Article 6:271 of the Dutch Civil Code,
    - will be limited to the total amount of the last three invoices paid by the Partner under a specific Agreement;
    - will be limited to an amount of € 5,000 per claim on other grounds;in which the total liability of the Contractor will at all times be limited to a maximum of € 25,000 per year, regardless of the basis for liability and the number of events causing the damage or loss.
- 6.2 These restrictions do not apply in the event of intent or deliberate recklessness on the part of the Contractor's management.
- 6.3 All subordinates, the company or companies with which the Contractor is affiliated in a group (as referred to in Article 2:24b of the Dutch Civil Code), clients and relations of the Contractor can rely on the above provisions vis-à-vis the Partner and, if necessary, also vis-à-vis third parties, on an equal basis as the Contractor.



- 6.4. The provisions of this article, as well as all other limitations and exclusions of liability stated in these General Terms and Conditions, equally apply to all (legal) persons engaged by the Contractor in the execution of the Agreement.
- 6.5. Damage or loss for which the Contractor can be held liable must be reported to the Contractor in Writing as soon as possible, but no later than within 14 days after its occurrence, on penalty of forfeiture of the right to compensation for this damage or loss. This period does not apply if the Partner can demonstrate, with valid reasons, that the damage or loss could not have been reported earlier.
- 6.6. A liability claim against the Contractor expires 12 months after the Partner became aware of the event causing the damage or loss, or could reasonably have become aware of it.

**Article 7. Confidentiality**

- 7.1. Parties will not provide confidential information of or about the other Party, its activities and relationships, which has come to their attention under the Agreement, to third parties, unless and insofar as the provision of that information is necessary to properly execute the Agreement or subject to a legal obligation to disclose.
- 7.2. At the request of the Partner, the Contractor will oblige the Prospective Flex Worker, Flex Workers/or Prospect to maintain confidentiality regarding everything that becomes known to them during the performance of the work, unless the Prospective Flex Worker, Flex Workers and/or Prospect are subject to a legal obligation to disclose.
- 7.3. The Partner is free to impose confidentiality on the Prospective Flex Worker, Flex Workers/or Prospect directly. The Partner informs the Contractor of its intention to do so and provides a copy of the relevant statement/agreement to the Contractor.
- 7.4. The Contractor is not liable for a fine, penalty or any damage or loss of the Partner as a result of a violation of that obligation of confidentiality by the Prospective Flex Worker, Flex Workers/or Prospect.

**Article 8. Force majeure and right of suspension**

- 8.1. The Contractor cannot be held to fulfil any obligation, including any legal and/or agreed (warranty) obligation, if the Contractor is prevented from doing so as a result of force majeure. Force majeure on the part of the Contractor includes force majeure of the Contractor's suppliers, war, danger of war, epidemics, pandemics, riots, rows and wilful damage, fire, water damage, floods, strikes, company sit-ins, accidents or illness of personnel, lockouts, import and export restrictions, government measures, machine breakdown, disruptions in supply, business disruptions, disruptions of the Internet and in data network or telecommunications facilities, (cyber)crime, (cyber)vandalism, general transport problems and problems unforeseen by the Contractor and any other circumstance not exclusively dependent on the Contractor's will.
- 8.2. The Contractor will inform the Partner of a situation referred to in the previous paragraph of this article as soon as possible. If the force majeure situation is of a temporary nature, the Contractor's obligations under the Agreement will be suspended for the period that this situation continues.
- 8.3. If the Contractor is prevented from fulfilling its obligations for a period of 3 months due to circumstances arising as referred to above, each of the Parties is entitled to terminate the Agreement in whole or in part. In that case, the Partner must pay the Contractor the fees it owes to the Contractor relating to the period before the force majeure situation.
- 8.4. The Partner is not entitled to suspend its obligations in whole or in part.
- 8.5. In the event of a situation of force majeure or a situation in which the agreement is dissolved in whole or in part as a result of force majeure, the Contractor is not obliged to pay any compensation to the Partner and/or third parties.
- 8.6. Any payment guarantees provided by or on behalf of the Partner must be extended accordingly.



**Article 9. Governing law and choice of forum**

- 9.1. These General Terms and Conditions, all legal relationships between the Parties and Agreements are governed by Dutch law.
- 9.2. All disputes arising from or related to a legal relationship between the Parties will in the first instance be settled exclusively by the competent District Court of Utrecht, unless mandatory legal provisions dictate otherwise. Nevertheless, the Contractor has the right to at all times submit the dispute to the competent court according to the law.

**Article 10. Reference to the Partner's Name**

- 10.1. The Contractor shall be entitled to use the Partner's name and logo on its website, social media channels, and other communication media, solely for the purpose of referencing the cooperation between the Parties.
- 10.2. The Contractor shall also be entitled to publish a case study or use case relating to the cooperation, for example in the form of an article, blog post, or social media post. In doing so, no confidential or sensitive business information of the Partner shall be disclosed.
- 10.3. If the Partner objects to the (continued) use of its name or logo, the Contractor shall cease such use within a reasonable period of time.
- 10.4. The Contractor shall further be entitled to post a vacancy online for the purpose of filling a position at the Partner.



## **PART B: POSTING**

### **Article 11. Duration and termination of the Agreement and Posting**

- 11.1. An Agreement is entered into for a definite or indefinite period of time.
- 11.2. An Agreement for a definite period of time is entered into for:
  - either a fixed period;
  - or for a determinable period;
  - or for a determinable period that does not exceed a fixed period.
- 11.3. If and insofar as the Agreement concluded between the parties has been entered into for a definite period, the Agreement has been entered into for the duration agreed between the parties. Each time the Agreement is tacitly extended for the duration of the period agreed originally, unless the Partner terminates the agreement in writing, with due observance of a notice period of 14 days before the end of the relevant period.
- 11.4. An Agreement for an indefinite period ends by written notice of termination with due observance of a notice period of one calendar month, unless the Agreement stipulates otherwise.
- 11.5. Each Agreement is terminated with immediate effect due to one of the Parties terminating the Agreement on account of:
  - the other Party being in default or;
  - the other Party ceasing its business operations, entering into an arrangement with all its creditors, being dissolved, liquidated and/or otherwise ceasing its activities, or;
  - the other Party applying for its own bankruptcy, bankruptcy being filed or the other Party being declared bankrupt or having applied for a suspension of payments.
- 11.6. The Contractor may further terminate the Agreement with immediate effect if a significant part of the Partner's assets is subject to executory attachment or conservatorship attachment and this attachment is not lifted within fourteen days after attachment.
- 11.7. If the Contractor terminates for one of the aforesaid reasons, the Partner's conduct on which the termination is based entails the Partner's silent request to terminate the Posting. This does not lead to any liability on the part of the Contractor for any damage or loss suffered by the Partner as a result. As a result of the termination, all claims of the Contractor will become immediately due and payable.
- 11.8. The end of the Agreement means the end of the Posting. Termination of the Agreement by the Partner (further) entails the Partner's silent request to the Contractor to terminate the current Posting(s) by the date on which the Agreement was legally terminated or on which the Agreement was legally dissolved.
- 11.9. If the Partner terminates the Agreement in accordance with this article, the Partner is obliged to pay the full hours during the notice period that the Flex Worker would have worked, if they had continued to work under the usual conditions.
- 11.10. If the agency clause applies between the Flex Worker on the one hand and the Contractor on the other, the Posting of the Flex Worker ends at the request of the Partner from the date the Flex Worker reports that they are unable to perform the work due to incapacity for work. The Partner is deemed to have made this request, insofar as necessary. The Partner must confirm this request to the Contractor in Writing, if so requested. The end of the Posting expressly does not mean the end of the Agreement.
- 11.11. The Posting ends by operation of law if and as soon as the Contractor can no longer make the Flex Worker available on account of the employment contract between the Contractor and the Flex Worker having ended and this employment contract is not subsequently continued for the same Partner. In that case, the Contractor will not be in breach towards the Partner, nor will it be liable for any damage or loss the Partner may suffer as a result.
- 11.12. The Partner must timely notify the Contractor about the termination or continuation of the Posting in order to enable the Contractor to correctly and fully comply with its obligations regarding the statutory notice period. Partner indemnifies the Contractor against any damage or loss that may result from this.



- 11.13. If the agency clause applies between the Flex Worker on the one hand and the Contractor on the other, the Partner will always be obliged, if the Posting has lasted more than 26 weeks, to report this to the Contractor upon termination of the Posting, at least ten calendar days before that termination, regardless of any applicable notice period in the Agreement or termination of the Agreement (by operation of law, for example due to the end of the term). If the Partner does not comply with this notice period, the Partner will be liable for and indemnifies the Contractor against all (direct and indirect) damage or loss that the Contractor suffers as a result, in any case including (but not limited to) the wages that the Flex Worker would have earned during the period of the notification period that was not observed.
- 11.14. The previous articles do not affect the right to invoke Article 6:265 of the Dutch Civil Code. In the event of dissolution of an Agreement, anything already paid under the Agreement cannot be reclaimed as an obligation to reverse.
- 11.15. Termination of an Agreement does not affect any other Agreements between the Contractor and Partner.

#### **Article 12.      Duty of the disclosure of the Partner**

- 12.1. The Partner acknowledges that proper execution of the Agreement by the Contractor generally depends on the correct and timely delivery of documents and data from the Partner, in particular with regard to determining the Equivalent remuneration. In order to ensure that the execution of the Agreement proceeds as much as possible according to schedule, the Partner must timely provide all necessary supplies to the Contractor and timely perform all actions that the Contractor requires for the execution of the Agreement, or of which the Partner should reasonably understand that these are necessary for the execution of the Agreement, including, but expressly not limited to, all information that may affect the Services. This expressly also applies to the information that is relevant for the qualification of the employment contract with the Flex Worker, in particular with regard to the (possible) activities of the Partner in the context of the recruitment and selection of the Prospective Flex Worker or Flex Worker. This information may be relevant when qualifying the Flex Worker's employment contract as a possible payroll agreement (within the meaning of Article 7:692 of the Dutch Civil Code).
- 12.2. The Partner acknowledges that all agreements between itself and the Contractor (and the performance of the Services) are based on the assumption that a regular agency contract within the meaning of Article 7:690 of the Dutch Civil Code is/has been concluded, not being a payroll agreement within the meaning of Article 7:692 of the Dutch Civil Code. If it unexpectedly turns out that, for whatever reason, a payroll agreement within the meaning of Article 7:692 of the Dutch Civil Code does exist between the Contractor and the Flex Worker, the Partner will be liable for and indemnifies the Contractor against all (direct and indirect) damage or loss (including, but not limited to, wages, premiums, taxes and all costs including the actual costs of legal assistance) that the Contractor suffers as a result of this (re)qualification. This damage or loss will be recovered from the Partner retroactively. In addition, the Client Rate will be adjusted accordingly (retroactively), i.e. taking into account all (cost-increasing) rules that apply to the payroll agreement.
- 12.3. All information that is relevant to the qualification of the employment contract must be reported by the Partner to the Contractor in writing, prior to the Contractor entering into an employment contract with the Prospective Flex Worker. The Partner will be liable for all costs (including legal costs) and damage or loss that the Contractor suffers on account of the Partner failing to comply with the aforesaid duty of disclosure, or failing to do so fully.
- 12.4. When entering into the Agreement, the Partner must notify the Contractor about any business closures and collective mandatory days off during the term of the Agreement, thereby enabling the Contractor, if possible, to incorporate this into the employment contract with the Flex Worker. If an intention to establish a business closure and/or collective mandatory days off becomes known after entering into the Agreement, the Partner must notify the Contractor in Writing immediately after this becomes known. If the Partner fails to inform the Contractor in Writing in a timely manner, the Partner is obliged to pay the Contractor the full Client Rate for



the duration of the business closure, for the applicable or usual number of hours and overtime per period under the Agreement and the General Terms and Conditions.

12.5. The Partner guarantees the accuracy, completeness, reliability, soundness and legality of the actions performed and data provided by or on behalf of the Partner to the Contractor. The Partner further guarantees that it has provided or performed all essential supplies and actions within the meaning of paragraph 1 of this article for the setup and execution of the Agreement.

12.6. The Partner shall inform the Contractor in writing in a timely manner, and in any event immediately upon becoming aware, of any changes to the employment conditions applicable to the Partner that (may) affect the Equivalent Remuneration of the Flex Worker.

12.7. The execution of the Agreement will not commence until the Partner has fulfilled the aforesaid duty of disclosure and/or obligation to deliver. If the information required for the execution of the Agreement has not been provided to the Contractor in a timely manner, or if the necessary actions have not been carried out in a timely manner, the Contractor has the right to either suspend the execution of the Agreement until all data has been provided or delivered by the Partner or to perform actions that are necessary to enable the Contractor to execute the Agreement, whereby the costs to be incurred by the Contractor will be at the risk and expense of the Partner.

12.8. If the Agreement can no longer be executed within the agreed period on account of the information required for the execution of the Agreement not having been provided to the Contractor in a timely manner, the Contractor has the right to terminate the Agreement with immediate effect, without being obliged to pay any compensation for damage or loss on the part of the Partner. The extra hours and/or extra costs incurred by the Contractor, as well as other damage or loss suffered by the Contractor on account of the Partner not having fulfilled its duty of disclosure set out in this article will be payable by the Partner in accordance with the rates applicable at that time.

12.9. The Partner is liable for and indemnifies the Contractor against the damage or loss suffered by the Contractor, the Flex Worker and/or the Partner as a result of the incorrect application of the Equivalent remuneration, if the Equivalent remuneration has been determined on the basis of incorrect or incomplete data provided by the Partner to the Contractor. The Partner is further liable for all costs (including the full legal costs) and damage or loss suffered by the Contractor on account of the Partner not having complied with the duty of disclosure referred to in this article (including providing all information that may be relevant to the qualification of the employment contract between the Contractor and the Flex Worker), or not having complied fully.

12.10. The Contractor is permitted to post a vacancy on its website for the position to be filled at the client. In that context, the Partner is obliged, immediately on request of the Contractor, to provide all relevant information for the work to be performed.

### **Article 13. Work procedure**

13.1. Before the start of the Agreement and/or Posting, the Partner must provide the Contractor with an accurate description of the position, job requirements, working hours, working time, activities, workplace, working conditions and the intended term of the Agreement.

13.2. Based on the information provided by the Partner and the qualities, knowledge and skills the Prospective Flex Workers or Flex Workers must possess according to the Partner in order to be considered for Posting, the Contractor determines which Prospective Flex Workers or Flex Workers it proposes to the Partner for the execution of the Agreement. The Contractor only has a best-efforts obligation. The Partner is entitled to reject the proposed Prospective Flex Worker or Flex Worker, as a result of which the proposed Prospective Flex Worker or Flex Worker will not be posted.

13.3. The Contractor will not be in breach towards the Partner, nor will it be obliged to compensate any damage or loss and/or costs if the negotiations between the Partner and the Contractor prior to a possible Agreement, including a specific request from the Partner to make a Flex



Worker available, for whatever reason, do not lead to the actual Posting of a Flex Worker or do not do so within the period desired by the Partner.

13.4. If, pursuant to the law or the Collective Agreement, the Contractor requires information from the Partner within the context of the fulfilment of its obligations, the Partner must provide this information to the Contractor immediately on request and free of charge.

#### **Article 14. Hiring and re-assigning Flex workers**

14.1. The Contractor is allowed to hire Flex Workers through another employer and to re-assign them to the Partner. If this situation occurs, wherever the Agreement and the General Terms and Conditions refer to "Contractor" in its capacity of employer of the Flex Worker, it must be read as the "other employer".

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

15.1. Pursuant to Article 21 of the Collective Labour Agreement, the Flex Worker is entitled to Equivalent Remuneration. This means that the total of the essential and non-essential employment conditions of the Flex Worker must be at least equivalent to the total employment conditions of an employee employed by the Partner in the same or an equivalent position, in accordance with the provisions of the Collective Labour Agreement.

15.2. The Remuneration of the Flex Worker, including any allowances and expense reimbursements, shall be determined in accordance with the Collective Labour Agreement (including the provisions on Equivalent Remuneration and the implementing rules regarding remuneration) and the applicable laws and regulations, on the basis of the job description, job classification, and all employment conditions applicable at the Partner for the relevant position, as provided by the Partner.

15.3. If at any time it appears that the job description and the associated pay scale do not correspond to the position actually performed by the Flex Worker, the Partner must immediately provide the Contractor with the correct job description and the associated pay scale. The Flex Worker's remuneration will be re-determined based on the new job description. The job description and/or pay scale can be adjusted during the Agreement, if the Flex Worker is entitled to this in accordance with legislation and regulations, the Collective Agreement and/or the Hirer's Remuneration. If the adjustment leads to a higher remuneration, the Contractor will adjust the Flex Worker's remuneration and the Client Rate accordingly. The Partner owes this corrected Client Rate to the Contractor from the date the actual position is performed, possibly with retroactive effect.

15.4. The Partner shall inform the Contractor in writing in a timely manner, and in any event immediately upon becoming aware, of any changes to the employment conditions applicable to the Partner.

15.5. If the Flex Worker cannot be classified on the basis of the Collective Agreement or if no employees are employed by the Partner in an equal or equivalent position, the Flex Worker's remuneration will be determined on the basis of discussions held by the Contractor with the Flex Worker and, if applicable, the Partner. This includes looking at the required abilities that the position entails, the responsibilities, experience and the level of education. The Partner must cooperate in the aforesaid discussion immediately on request of the Contractor and provide the Contractor with all information that the Contractor deems necessary for determining the correct remuneration of the Flex Worker.

15.6. If a circumstance arises that means that the Flex Worker, notwithstanding the previous paragraph, must be/should have been remunerated on the basis of the Equivalent remuneration, the Partner must notify the Contractor of this in Writing in a timely manner and, in any case, immediately upon becoming aware of this circumstance. In that case, the Flex Worker's remuneration and the Client Rate will be adjusted in accordance with paragraph 3 of this article.

15.7. Overtime, travel hours or travel time, work in shifts, work under physically demanding conditions, at special times or on special days (including public holidays), and/or rescheduled



hours shall be remunerated in accordance with the applicable arrangements under the collective labour agreement or employment conditions scheme applicable to the Partner and/or the Collective Labour Agreement, and shall be charged on to the Partner.

- 15.8. The Contractor will pay the wages to the Flex Worker(s) and keep the associated payroll administration.
- 15.9. If, at the Partner, the policy regarding the periodic wage within the pay scale is to determine the initial job classification partly on the basis of experience, this policy shall also apply to the Flex Worker. The Partner is obliged to inform the Contractor of such a policy, so that this can be taken into account when determining the classification. If the Partner does not take into account the work experience relevant to the position when determining the classification, the Contractor shall nevertheless take this into account for the Flex Worker in accordance with the Collective Labour Agreement. As the Flex Worker may not, in that case, be placed in the lowest step of the job scale applicable to him, the Partner is obliged to cooperate in determining the classification and the step within the scale that corresponds to the Flex Worker's relevant work experience for the position. If it subsequently appears that the classification was not (or was not) correct, the Contractor is entitled to determine the Remuneration retroactively with retrospective effect and to adjust the Client Rate accordingly (with retrospective effect) and charge this to the Partner. The Partner is also liable for all costs (including the full legal costs) and damages suffered by the Contractor as a result of the Partner not or not fully complying with this obligation.
- 15.10. With regard to the classification of the Flex Worker, the Contractor is obliged to apply at least the previous classification if the Flex Worker returns to the same Partner, or to a Partner within the same collective labour agreement area in an almost identical position, or in the event of successive employment. Upon return within nine months, a step increase shall also be granted pursuant to the Collective Labour Agreement, if such an increase would have been granted during this interruption period.
- 15.11. With regard to periodic wage increases for the Flex Worker (and consequently an adjustment of the Client Rate), the following applies pursuant to the Collective Labour Agreement:
  - a. Periodic wage increases shall be granted in the same manner as at the Partner.
  - b. If the granting of a periodic wage increase at the Partner depends on the performance appraisal of the Flex Worker, the Flex Worker shall always receive a periodic increase, unless the Partner can sufficiently demonstrate – in the opinion of the Contractor – that the Flex Worker would not have received a periodic increase under the Partner's rules and procedures. If the Partner fails to do so, the Contractor is entitled to nevertheless grant a periodic increase to the Flex Worker. In addition, if no appraisal has taken place or not in a timely manner, the Contractor is entitled to grant the Flex Worker a periodic increase that is demonstrably the most common at the Partner.
- 15.12. Pursuant to the Collective Labour Agreement, the Flex Worker may not miss out on a periodic wage increase as a result of changing Partners. In that case, the Contractor shall, for each subsequent placement when granting a periodic increase, also take into account the relevant work experience gained with previous Partners in (almost) the same position, even if this is not normally how periodic wage increases are determined at the relevant Partner.

#### **Article 16. Client Rate**

- 16.1. The fee owed by the Partner to the Contractor is calculated by multiplying the agreed Client Rate by the hours worked by the Flex Worker or (if higher) by the hours to which the Contractor is entitled under the Agreement and/or the General Terms and Conditions, regardless of the actual number of hours worked by the Flex Worker. The Client Rate is further increased by the (expense) allowances owed by the Contractor to the Flex Worker. VAT will be charged on the total fee to be paid by the Partner to the Contractor.
- 16.2. If, at any time, the Equivalent Remuneration that the Contractor is required to pay to the Flex Worker increases, for example as a result of changes in collective labour agreements, pay scales,



wage increases, (periodic) step increases, allowances, (one-off) payments, or changes in other employment conditions at the Partner, the Client Rate shall increase one-to-one by an equal amount.

- 16.3. In addition to the provisions of paragraph 2, the Contractor is entitled to amend the Client Rate in the interim in the event of:
  - a. changes in applicable laws and regulations (including tax and social security legislation) that affect the costs of engaging the Flex Worker;
  - b. changes in the qualification of the employment agreement between the Contractor and the Flex Worker (for example requalification to a payroll agreement within the meaning of Article 7:692 of the Dutch Civil Code), including all costs associated therewith;
  - c. other objective cost-increasing factors.
- 16.4. The fee to be paid by the Partner to the Contractor will be increased by the (transition) fee owed to the Flex Worker due to the notice period not being (fully) observed, insofar as the Flex Worker can claim this under the provisions of Articles 7:673 and 7:668 of the Dutch Civil Code. These fees will be charged on to the Partner by the Contractor on a one-to-one basis.
- 16.5. The Client Rate does not include any travel costs at € 0.23 per kilometre driven by the Flex Worker(s). These travel costs will be charged separately to the Partner.  
In addition, the Client Rate does not include any travel costs incurred by the Flex Worker(s). The travel time will be invoiced to the Partner. However, the Contractor will pay for one hour of travel time per day, per Flex Worker. This paragraph does not apply to commuting to a fixed workplace.
- 16.6. During public holidays, as referred to in the Collective Agreement, the Client Rate is increased by 50%.
- 16.7. If, at any time, the working hours of the Flex Worker must be increased due to the Flex Worker's acceptance of the Contractor's mandatory offer to work fixed hours, the Partner shall, from the moment the Contractor is required to continue paying the Flex Worker for this number of hours, be liable for the Client Rate in respect of this adjusted number of hours.
- 16.8. If at any time the Equivalent remuneration must be applied or increased, the Contractor will re-determine the Flex Worker's remuneration and the Client Rate based on the information provided by the Partner regarding the job classification and Hirer's Remuneration. The remuneration and the Client Rate include all elements of the Hirer's Remuneration as applicable at the Partner.
- 16.9. The Client Rate applies during the current calendar year. Towards the end of the year, a new rate will be determined by the parties in joint consultation for the following years. As long as no agreement on a new rate has been reached, the rate of the previous year applies, plus an inflation correction as reflected in the Consumer Price Index figure for all households, as determined by Statistics Netherlands in the relevant year.
- 16.10. If the Partner does not agree to payment of the adjusted Client Rate, this entails the Partner's silent request to unilaterally terminate the Posting. However, the Posting only ends when the employment contract between the Flex Worker on the one hand and the Contractor on the other can be legally terminated. The Partner owes the Client Rate until the date of termination of the employment contract.
- 16.11. If the remuneration has been set too low for any reason attributable to the Partner, the Contractor is entitled to determine the remuneration retrospectively and to adjust and charge the Client Rate accordingly, i.e. retroactively. The Contractor can also charge the Partner for any amounts underpaid by the Partner as a result, as well as any subsequent costs incurred by the Contractor.



## **Article 17. Acquisition**

17.1. For the purpose of this article, entering into an employment relationship with a Prospective Flex Worker and/or Flex Worker is taken to mean:

- the Partner entering into an employment contract, a contractor agreement and/or a contract for services with a Prospective Flex Worker and/or Flex Worker;
- having the relevant Prospective Flex Worker and/or Flex Worker made available by a third party (for example another employment agency);
- the entering into an employment relationship by the Prospective Flex Worker and/or Flex Worker with a third party, in which the Partner and that third party are affiliated in a group (as referred to in Article 2:24b of the Dutch Civil Code) or a subsidiary of another company (as referred to in Article 2:24a of the Dutch Civil Code).

17.2. For the purpose of this article, Prospective Flex Worker and/or Flex Worker further includes:

- the Prospective Flex Worker and/or Flex Worker who is registered with the Contractor;
- the Prospective Flex Worker and/or Flex Worker who has been introduced to and/or brought into contact with the Partner by the Contractor;
- the Flex Worker whose Posting ended less than twelve months before entering into the employment relationship with the Partner.

17.3. The Partner is only entitled to enter into an employment relationship with a Prospective Flex Worker and/or Flex Worker if and insofar as the provisions of this article are met.

17.4. The Partner may not enter into an employment relationship with the Flex Worker if and insofar as the employment contract between the Flex Worker on the one hand and the Contractor (or the third party) on the other hand has not been legally terminated and if and insofar as the Partner cannot or has not legally terminated the Agreement with the Contractor.

17.5. The Partner must notify the Contractor in Writing as soon as possible of its intention to enter into an employment relationship with the Prospective Flex Worker and/or Flex Worker, prior to implementing that intention. The Agreement must be terminated by the Partner in accordance with these General Terms and Conditions.

17.6. If a Prospective Flex Worker and/or Flex Worker has been referred to the prospective Partner through the intervention of the Contractor and this prospective Partner, directly or through third parties, enters into an employment relationship for the same or another position with that Prospective Flex Worker and/or Flex Worker within twelve months after that Prospective Flex Worker and/or Flex Worker was proposed, then this Partner will owe the Contractor an immediately due and payable, non-deductible fee amounting to 25% of the (Client) Rate that would have been charged by the Contractor for the work of the Prospective Flex Worker and/or Flex Worker if they had performed work for the Partner through the Contractor for a period of 1,560 hours, subject to a minimum gross fee of € 8,500. The Partner owes this fee by default if the Prospective Flex Worker and/or Flex Worker has been referred to the Partner by the Contractor. Whether the Partner already knew the Prospective Flex Worker and/or Flex Worker directly or indirectly (in whatever capacity) is not relevant with regard to the obligation to compensate as referred to in this article.

17.7. If the Partner enters into an employment relationship, directly or through third parties, for the same or a different position, with a Flex Worker made available to the Partner on the basis of an Agreement for a fixed or indefinite period, prior to that Flex Worker having completed 1560 hours of work, the Partner owes the Contractor, without further notice of default, an immediately due and non-deductible fee of 25% of the last applicable Client Rate for 1560 hours, minus the hours already worked by the Flex Worker on the basis of the Agreement. The above is subject to a minimum fee due of € 1,500.

17.8. If the Partner enters into an employment relationship with the Flex Worker, for the same or a different position, within twelve (12) months after the Flex Worker's Posting to or work at the Partner ended (regardless of whether this was based on an Agreement for a definite or indefinite period), the Partner owes a fee of 25% of the Client Rate, which would have applied to the person concerned over a period of 1,560 hours worked, minus the hours already worked by the Flex Worker on the basis of the terminated Agreement. The above is subject to a minimum



fee due of € 1,500. This applies both if the Partner approached the Flex Worker for this purpose directly or through third parties and if the Flex Worker applied to the Partner, directly or through third parties.

**Article 18. Invoicing and time sheets**

- 18.1. Unless otherwise agreed in Writing, time sheets are subject to digital approval by the Partner.
- 18.2. The Partner further owes the Client Rate for the hours during which the Flex Worker was unable to perform the work due to a cause that, if the Partner had been the employer of the Flex Worker, should reasonably be payable by the Partner under Article 7:628 of the Dutch Civil Code.
- 18.3. The Contractor will at least invoice the number of hours agreed in the Agreement that the Flex Worker is made available to the Partner. Invoicing takes place weekly, namely at the beginning of the next calendar month and, in the event of earlier termination of the Agreement, as soon as possible thereafter.
- 18.4. The Partner must ensure that it approves the hours in a timely manner, so that the Contractor has the time sheets at its disposal immediately after the Flex Worker completed the working week. The Partner is responsible for the manner in which time sheets are provided to the Contractor. By approving the timesheets, the Partner indicates that the Flex Worker is performing satisfactorily and has actually performed the work.
- 18.5. Before submitting the time sheets, the Partner gives the Flex Worker the opportunity to check the time sheets. If and insofar as the Flex Worker disputes the hours stated in the timesheet, the Contractor is entitled to determine the hours and costs in accordance with the Flex Worker's statement, unless the Partner can demonstrate that the hours stated by the Partner are correct.

**Article 19. Special minimum payment obligations**

- 19.1. Without prejudice to the Partner's other obligations towards the Contractor, the Partner is obliged to pay the Contractor at least the Client Rate calculated over three hours worked if:
  - the Flex Worker reports at the agreed time and place to perform the agency work, but is not enabled by the Partner to start the agency work, or:
  - the Partner enables the Flex Worker to perform the agency work for less than three hours.
- 19.2. Without prejudice to the Partner's other obligations towards the Contractor, the former is at all times obliged to pay the Client Rate for the hours for which the Flex Worker is entitled to wages, in accordance with the provisions of Article 7:628a, paragraph 3 of the Dutch Civil Code.

**Article 20. Replacement, availability and rehabilitation**

- 20.1. The Contractor is entitled to make a proposal to the Partner to replace a Flex Worker, who has been made available, by another Flex Worker, under continuation of the Agreement, including with a view to the Contractor's company policy or personnel policy, retention of employment or compliance with the applicable legislation and regulations, in particular the applicable Collective Agreement and rules of dismissal for the employment agency industry. The Partner can only reject such a proposal on reasonable grounds. The Partner must provide written reasons for any rejection, if so requested.
- 20.2. The Contractor is not in breach towards the Partner and is not obliged to compensate the Partner for any damage or loss and/or costs if, for whatever reason, the Contractor cannot or no longer provides a (replacement) Flex Worker to the Partner, or at least no longer does so in the manner and scope as agreed in the Agreement or subsequent agreements.
- 20.3. If the Partner has conditions relating to reintegration or return to work that affect the continued payment of wages to the Flex Worker or the amount thereof, the Contractor is obliged to comply with these conditions at the time and for the hours at which the Flex Worker commences the suitable work offered by the Partner. The Partner is obliged to inform the Contractor of these conditions in a timely and complete manner, where "timely" shall in any event mean: prior to the deployment of the Flex Worker.



- 20.4. The Partner is obliged, immediately on request of the Contractor, to cooperate in the rehabilitation of the (incapacitated) Flex Worker made available to the Partner. This means, among other things (but not exclusively), that the Partner is obliged to have the Flex Worker perform rehabilitation work in an alternative position or for an adjusted number of hours. If the Partner provides no or insufficient cooperation, the Partner (expressly in deviation from the provisions of the Agreement where applicable) is obliged to pay the Client Rate for the number of hours for which the Flex Worker is entitled to continued payment of wages from the Contractor.
- 20.5. The Flex Worker is not made available exclusively to the Partner. The Contractor is permitted to assign the Flex Worker to another Partner, without the Partner's consent.

**Article 21. Proper management and supervision**

- 21.1. The Partner is responsible for the manner in which the work is carried out by the Flex Worker(s).
- 21.2. The Partner is responsible for supervising the Flex Worker in the manner that is customary within the Partner's company.
- 21.3. Prior to the start of the work, the Partner must provide the Contractor and the Flex Worker with all relevant documents within the Partner's company that are important for the work and/or the Flex Worker, which in any case includes its code of conduct, the regulations pertaining to security and confidentiality, the required professional qualifications, as well as a document containing the specific characteristics of the workplace.
- 21.4. The Partner is obliged to immediately notify the Contractor as soon as circumstances arise that could give rise to the Contractor to impose sanctions on the Flex Worker or to take measures aimed at terminating the relationship. The Partner is further obliged to fully cooperate with the implementation of such sanctions or measures, or, to the extent necessary, to take appropriate action itself.
- 21.5. When managing and supervising, as well as with regard to the execution of the work, the Partner must act towards the Flex Worker with the same prudence as it is obliged to do towards its own employees.
- 21.6. The Partner is not permitted to assign the Flex Worker to a third party; i.e. making the Flex Worker available to a third party for the performance of work under the management and supervision of this third party. Re-assigning to a third party includes the Partner making the Flex Worker available to a (legal) person with whom the Partner is affiliated in a group (of companies).
- 21.7. Deployment of the Flex Worker abroad by a Partner established in the Netherlands is possible for a limited period only, under the condition that the Partner has organised management and supervision and provided that the deployment has been agreed in Writing with the Contractor and the Flex Worker.
- 21.8. The Partner must compensate the Flex Worker for any damage suffered by the Flex Worker on account of an item of property belonging to the Flex Worker and which item of property was used in the context of the assigned work, was damaged or destroyed.
- 21.9. The Partner must, to the extent possible, take out adequate liability insurance on the basis of the provisions of this article. The Partner must provide proof of insurance to the Contractor at the request of the Contractor.

**Article 22. Working time and working hours**

- 22.1. The working time and hours of the Flex Worker at the Partner are agreed prior to Posting. The working hours, working time and rest periods of the Flex Worker are the same as the Partner's usual times and hours, unless otherwise agreed. The Partner guarantees that the overall working time, break times and working hours of the Flex Worker meet the legal requirements. The Partner ensures that the Flex Worker does not exceed the legally permitted working time and hours.
- 22.2. Public holidays and vacation days shall be determined in accordance with the collective labour agreement or employment conditions scheme applicable at the Client. The value of a (leave)

day (for example a vacation day, public holiday or ADV day) shall be determined on the basis of the information obtained from the Client, and the Client shall provide insight accordingly. If the Client does not have an unambiguous method for determining the value of a (leave) day, a percentage of 0.385% shall apply, which percentage is based on 260 workable days (1/260).

22.3. If the Flex Worker requires specific training or work instructions for the execution of the assignment, the hours that the Flex Worker spends on this training will be charged to the Partner as hours worked.

### **Article 23. Working conditions**

23.1. The Partner declares that it is aware of the fact that it is deemed an employer under the Working Conditions Act.

23.2. The Partner is responsible towards the Flex Worker and Contractor for compliance with the obligations arising from Article 7:658 of the Dutch Civil Code, the Working Conditions Act and the safety regulations applicable in the workplace and ensuring good working conditions in general.

23.3. The Partner is obliged to timely provide the Flex Worker and Contractor with written information, at least one working day before the start of the work, about the required professional qualifications and the specific characteristics of the job to be performed. The Partner actively provides the Flex Worker with information regarding the Hazard Identification and Risk Assessment (HIRA) applicable within its company.

23.4. If the Flex Worker is involved in a workplace accident or suffers from an occupational disease, the Partner must, if legally required, immediately notify the competent authorities thereof and ensure that a written report is drawn up promptly. The report records the circumstances of the accident in such a way that it can be determined with a reasonable degree of certainty whether and to what extent the accident is the result of insufficient measures being taken to prevent the accident or occupational disease. The Partner must notify the Contractor as soon as possible about the workplace accident or occupational disease and submit a copy of the report drawn up by the Partner.

23.5. The Partner must reimburse the Flex Worker and indemnify the Contractor against all damage or loss (including costs plus actual costs of legal assistance) suffered by the Flex Worker in the context of the performance of their work, if and insofar as the Partner and/or Contractor is liable for this under Articles 7:658 and/or 7:611 and/or 6:162 of the Dutch Civil Code. "Suffered by the Flex Worker in the context of the performance of their work" also expressly refers to the damage or loss that the Flex Worker suffers whilst commuting to work.

23.6. If the workplace accident leads to the Flex Worker's death, the Partner is obliged to compensate the damage or loss (including costs plus actual costs of legal assistance) in accordance with and to the persons referred to in Article 6:108 of the Dutch Civil Code and to indemnify the Contractor against all damage or loss (including costs plus actual costs of legal assistance) for which it is held liable.

23.7. The Partner must take out adequate insurance against liability on the basis of the provisions of this article. The Partner must provide proof of insurance to the Contractor immediately on request of the latter.

### **Article 24. Privacy and verification and retention obligations of the Partner**

24.1. The Partner receives personal data of the Flex Workers from the Contractor. If the Partner decides to reject a Flex Worker who has been offered, the Partner must destroy the personal data provided by the Contractor within one week.

24.2. At the start of the Posting of a Flex Worker, the Partner is obliged to determine their identity on the basis of an original identity document stating the Flex Worker's nationality. This identity document must be carefully checked for authenticity and validity.

24.3. The Partner must treat the Flex Worker's personal data disclosed to the Partner in the context of the Posting confidentially and process it in accordance with the provisions of the applicable privacy laws and regulations.



- 24.4. A Partner to whom a foreigner is made available by the Contractor within the meaning of the Foreign Nationals (Employment) Act expressly declares to be familiar with Article 15 of this law, which means that the Partner must receive from the foreigner a copy of the document as referred to in Article 1 of the Compulsory Identification Act, prior to commencement of the work. The Partner is responsible for carefully checking the aforesaid document and, on this basis, determines the identity of the foreigner and must include a copy of the document in its administrative records. The Contractor is not responsible or liable for any fine imposed on the Partner under the Foreign Nationals (Employment) Act.
- 24.5. Nor is the Contractor liable for fines or claims imposed on the Partner on account of the latter failing to fulfil its obligations as stated in this article.
- 24.6. The Partner must at all times indemnify the Contractor against fines imposed on and claims against the Contractor due to the Partner's failure to comply with the obligations stated in this article.

#### **Article 25. Participation**

- 25.1. The Partner is obliged to give a Flex Worker who is a member of the Contractor's works council or of the Partner's works council the opportunity to exercise their participation rights in accordance with legislation and regulations.
- 25.2. If the Flex Worker exercises their participation rights in the Partner's company, the Partner owes the Client Rate for the time during which the Flex Worker performs work during working hours or attends training in connection with exercising these participation rights.
- 25.3. The Partner declares that it is aware of its duty of disclosure under the Works Councils Act (hereinafter referred to as WOR) regarding the (expected) deployment of Flex workers in its company. If and insofar as the Partner wishes to base the fulfilment of this duty of disclosure on information provided or to be provided by the Contractor, the provision of information will not go beyond what the WOR requires.

#### **Article 26. Obligations regarding the Placement of Personnel by Intermediaries Act**

- 26.1. The Partner expressly declares to be aware of the obligations applicable to it under the Placement of Personnel by Intermediaries Act, including, but expressly not limited to:
  - Article 8b of the Placement of Personnel by Intermediaries Act: the Partner must ensure that the Flex Workers have equal access to the corporate facilities or services in its company, in particular canteens, childcare and transport facilities, as the employees who are employed by its company and work in equal or equivalent positions, unless the difference in treatment is justified for objective reasons;
  - Article 8c of the Placement of Personnel by Intermediaries Act: the Partner must ensure that vacancies arising within its company are timely and clearly communicated to the Flex Workers, so that they have the same opportunities for an employment contract for an indefinite period as the employees of the Client;
  - Article 10 of the Placement of Personnel by Intermediaries Act: the Partner must timely and fully notify the Contractor about the intention, commencement, continuation or termination of collective actions organised by the trade unions or otherwise, including, but not limited to, strikes, lockouts or company sit-ins. In the performance of its management and supervision of the Flex Workers, the Partner may expressly not issue assignments to Flex Workers that would violate Article 10 of the Placement of Personnel by Intermediaries Act.
  - Article 12a of the Placement of Personnel by Intermediaries Act: prior to the Posting, the Partner must provide written information to both the Contractor and the Flex Workers about the terms and conditions of employment, as referred to in Article 8 of the Placement of Personnel by Intermediaries Act.



### **Article 27. Prohibited discrimination and treatment of Flex Workers**

- 27.1. The Partner and Contractor will refrain from any prohibited discrimination based on religion, belief, political opinion, gender, race, nationality, sexual orientation, marital status, disability, chronic illness, age or any other reason. The Partner and Contractor will only impose requirements relevant to the position or take them into account when concluding or executing the Agreement and when selecting and dealing with Flex Workers.
- 27.2. The Partner is familiar with the Whistleblower Protection Act and guarantees that Flex Workers have access to the whistle-blowers' scheme in the same way as its own staff, provided the Partner has such a scheme in place or is subject to such a scheme.
- 27.3. If the Partner operates a complaints procedure with regard to the treatment of employees, it must ensure that Flex Workers have access to this complaints procedure in the same way as its own staff. This only concerns complaints that do not concern the employment of the Contractor, all this insofar as no other legal obligations exist.

### **Article 28. Liability**

- 28.1. The Contractor will make every effort to execute the Agreement as a reasonably competent contractor.
- 28.2. During the term of the Agreement, the Partner is liable for the damage or loss suffered by the Contractor, the Flex Worker and/or third parties as a result of acts and/or omissions of the Flex Worker. The Contractor is not liable for damage or loss suffered by the Partner as a result of actions and/or omissions of the Flex Worker. The Partner indemnifies the Contractor against any liability (including costs plus actual costs of legal assistance), directly or indirectly, in connection with the damage or loss referred to in this paragraph.
- 28.3. The Partner is obliged to take out adequate insurance to cover the liabilities specified in this article. The Partner must submit a copy of the policy sheet to the Contractor, immediately on request of the latter.

### **Article 29. Intellectual and industrial property**

- 29.1. At the request of the Partner, the Contractor will have the Flex Worker sign a written statement, insofar as necessary and possible, to ensure or promote that all intellectual and industrial property rights to the results of the Flex Worker's work are vested in or transferred to the Partner. If the Contractor owes the Flex Worker compensation in this regard or otherwise has to incur costs, the Partner will owe the Contractor equal compensation or equal costs.
- 29.2. The Partner is free to enter into an agreement directly with the Flex Worker or to submit a statement to them for signing regarding the intellectual and industrial property rights referred to in paragraph 1 of this article. The Partner must notify the Contractor of its intention to do so and provide a copy of the relevant agreement/declaration to the Contractor.
- 29.3. The Contractor is not liable to the Partner for any fine or penalty that the Flex Worker forfeits or any damage or loss suffered by the Partner as a result of the Flex Worker invoking any intellectual and/or industrial property right.



## **PART C: RECRUITMENT AND SELECTION**

### **Article 30. Execution**

- 30.1. Immediately after the start of the Agreement, the Partner must provide the Contractor with an accurate description of the position, job requirements, the desired profile of the Prospect based on knowledge and skills, working times and hours and of the activities for which the Contractor is looking for a Prospect. The Partner is therefore responsible for this information and data and the Contractor is entitled to rely on the aforesaid information and data when performing the Services.
- 30.2. The Contractor will record the information referred to in paragraph 1 of this article in writing, in the form of a job description or in the confirmation of the assignment. This record will include the assessment criteria on the basis of which the Prospect is selected. The Contractor is entitled to place the information referred to in paragraph 1 of this article on its website in the form of a vacancy.
- 30.3. Based on the information provided by the Partner and the qualities, knowledge and skills of the eligible (Prospective) Prospects known to it, the Contractor determines which (Prospective) Prospects it proposes to the Partner for the execution of the assignment. The Partner is entitled to reject the proposed (Prospective) Prospect.
- 30.4. The Contractor guarantees the proper execution of the assignment. The Contractor's Services have the character of a best-efforts obligation.
- 30.5. The Partner at all times decides whether it wants to offer an (employment) contract to a (Prospective) Prospect selected by the Contractor.
- 30.6. All agreed delivery times are always target dates. These delivery times do not bind the Contractor, are provided for indicative purposes only and can never be regarded as strict deadlines, unless the Parties have expressly agreed otherwise in writing. The Contractor will make every effort to observe the relevant delivery times as much as possible, on the understanding that the mere exceeding of a delivery time does not constitute a shortcoming. Delays in delivery will never give the Partner the right to terminate the Agreement or to any form of compensation.
- 30.7. All Prospects proposed by the Contractor fall within the scope of these General Terms and Conditions, unless the Partner immediately reports in Writing that it has already conducted discussions with a Prospect involved for the position referred to in the Agreement during the six months prior to the date of signing of the Agreement.
- 30.8. The Partner must treat the names and/or information provided by the Contractor confidentially and furthermore comply with the obligations under the General Data Protection Regulation. The Partner indemnifies the Contractor against any claims and/or sanctions imposed in connection with the Contractor's violation of the provisions of this paragraph.
- 30.9. The Partner may not provide information about Prospects to third parties in any way, directly or indirectly, without written permission from the Contractor.

### **Article 31. Fee**

- 31.1. The fee to be paid for the assignment is specified in the Agreement. The fee is based on the gross annual income (based on full-time employment including holiday allowance) that the Prospect will earn with the Contractor, supplemented with a guaranteed or reasonably expected bonus or profit sharing, fixed entertainment allowances, 13th month, lease car and other perquisites
- 31.2. If an employment relationship of any kind is established with more than one of the Prospects nominated by the Contractor, the Contractor is entitled to charge the full fee per Prospect, in accordance with paragraph 1.
- 31.3. If and insofar as a selected Prospect performs work and/or services directly for the Partner without being employed by the Partner, the fee to be paid for the assignment will consist of a percentage to be determined of the Prospect's all-in rate for the work/services to be performed



by them, all this on an annual basis and 40 hours per week. If such a calculation is not possible, the fee to be paid will be set at an amount of at least € 8,500

- 31.4. The fee as mentioned above includes the costs for the assignment carried out by the Contractor. All additional costs, such as those incurred by the selected Prospect(s) in connection with interviews conducted with the Partner, travel costs incurred, costs associated with a possible (psychological) test and advertising costs will be payable by the Partner.
- 31.5. The Partner owes the fee once the Partner enters into an (employment) agreement with the Prospect, or once the Prospect starts performing work and/or services at or for the Partner in another way.

#### **Article 32. Liability**

- 32.1. The Partner is solely responsible for the final decision to enter into an employment contract with a Prospect selected by the Contractor and for the content of that (employment) contract. The Contractor is therefore in no way liable for any damage or loss, in the broadest sense, caused directly or indirectly by the Prospect supplied by the Contractor.
- 32.2. The Contractor will make a reasonable effort to offer a potentially suitable Prospect in a timely manner. The Contractor is not in breach towards the Partner and is not obliged to compensate the Partner for any damage or loss and/or costs if, for whatever reason, the Contractor cannot offer a Prospect or cannot do so in a timely manner.
- 32.3. The Contractor is not liable if a Prospect proposed by it does not wish to enter into an employment relationship with the Partner, or if an employment relationship entered into is terminated (prematurely).
- 32.4. The Contractor is not liable if the Prospect does not appear to meet the requirements or expectations of the Partner, unless in the event of intent or gross negligence on the part of the Contractor. Without prejudice to the above, any liability of the Contractor will be limited to what is determined in Article 7 of the General Terms and Conditions.

#### **Article 33. Entering into a direct (employment) relationship with the Prospect**

- 33.1. The Partner is not permitted to employ a Prospect in any way offered or introduced by the Contractor or to have work carried out by a Prospect within 12 months after the withdrawal, expiry, termination or failure of the Assignment, regardless of whether the Partner was already acquainted with the introduced Prospect. In the event of violation or failure to comply with the above, the Contractor will be entitled to a fine equal to the fee that would apply to the Prospect at the time of entering into the employment relationship or start of the work, plus an immediately due and payable fine of € 20,000 excluding VAT, without prejudice to the Contractor's right to claim full compensation instead of the fine.
- 33.2. If the Partner introduces a Prospect introduced by the Contractor to a third party (including a group and/or companies affiliated with the Partner) and this introduction results in an employment contract or other form of employment with or for that third party, the Partner will owe an immediately due and payable fine of € 25,000 excluding VAT, without prejudice to the Contractor's right to claim full compensation instead of the fine.

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