

# General Terms and Conditions Vitae

applicable as of 1 January 2009

## **www.vitae.nl**

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Maastricht	043-3501900
Rotterdam	010-2425 200
Utrecht	030-2879 379
Zwolle	038-4288 800

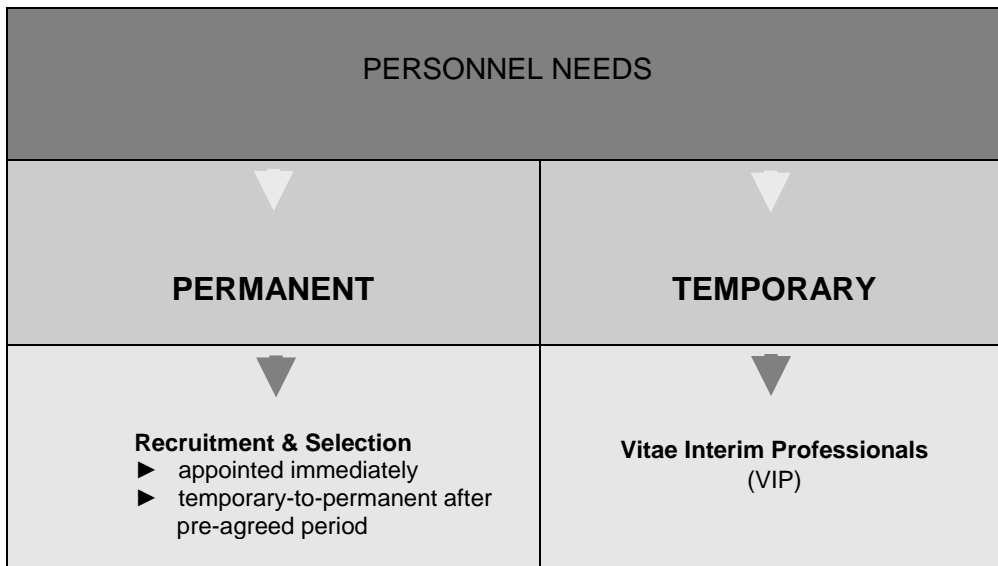
*The present General Terms and Conditions have been filed at the Chamber of Commerce in Amsterdam under number 33214370.*

*Vitae is the registered trade name of Vitae Nederland BV, and it is registered at the Chamber of Commerce in Amsterdam under number 33214370.*

*This translation has been furnished for the principal's convenience only. The original Dutch text, which will be sent upon request, will be binding and will prevail in the event of any discrepancy between the original Dutch version and its English translation.*

**Guide to these General Terms**

This document sets forth the text of the General Terms and Conditions (the “General Terms”) applicable to all applications, offers, orders and agreements between Vitae and its principals. Irrespective of the sector of industry or specialisation, Vitae can provide two basic types of service to fill a principal's personnel needs: **permanent** and **temporary**.



This schedule is a quick guide to help you find the Terms applicable to your situation:

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## Recruitment and selection

Vitae can offer a principal two options for fulfilling its needs for extra and replacement permanent personnel: the principal can appoint the candidate directly (section 1.1), but Vitae can also first appoint the candidate, upon which the principal appoints a temporary candidate permanently after a certain fixed period (section 1.2).

### A Recruitment and Selection - appointed directly by the principal

#### Article A1: Scope

- a. A recruitment and selection order for direct appointment is an order whereby Vitae selects one or more candidates it deems suitable for appointment by the principal and introduces these to the principal orally or in writing. Such an order will be deemed to have been successfully fulfilled if and as soon as the principal appoints a candidate introduced by Vitae.
- b. 'Appointment' will be deemed to include any similar type of practical assignment of a candidate introduced by Vitae (e.g. as a contractor, partner, on secondment etc.), directly or via a third party, at the principal's location or elsewhere, by the principal and/or by an enterprise affiliated to its organisation.
- c. The 'successful fulfilment' of a recruitment and selection order will also be deemed to include a situation in which a principal or an enterprise affiliated thereto appoints or otherwise employs a candidate introduced to the principal by Vitae within twelve months of that introduction, after the withdrawal of the order or otherwise, via third parties or otherwise, in any manner and in any position.
- d. Unless the principal has made an explicit, written and prior reservation, the fee will also be payable if the principal appears to be already acquainted with the candidate introduced by Vitae.

#### Article A2: Fee

- a. In the event of the successful fulfilment of a recruitment and selection order, Vitae will charge the principal a fee of 25% of the candidate's pre-tax annual salary, plus the VAT payable over that sum.
- b. The pre-tax annual salary is the annual salary including all benefits which the candidate nominated by Vitae will be earning after appointment. In this connection, the term 'benefits' will be deemed to be: holiday allowance, a thirteenth month, any kind of bonus or commission, company car (fixed at 15% of the catalogue value), costs, expenses and all payments and employee benefits which can be quantified as such. This annual salary will be based on a full working week (fixed at 40 hours a week) and a full year, even if the candidate is appointed in a position for less than 40 hours a week and/or for less than twelve months.
- c. In a case as meant in article A1b. and/or in case the pre-tax annual salary is hard to determine (for example because of the predominance of bonuses or commissions), the fee will be based on the market value of the candidate, as determined by Vitae.

#### Article A3: Other costs

Aside from the fee for a successful fulfilment, the principal is not required to pay Vitae any costs for the execution of the agreement, unless Vitae and the principal have made explicit agreements to the contrary.

#### Article A4: Obligatory information

The principal is required to provide Vitae with the data on the pre-tax annual salary and commencement date of the candidate selected by Vitae within 14 (fourteen) days of a request to that effect. If the principal fails to provide correct data or fails to provide data promptly or in full, Vitae will be authorised to estimate that pre-tax annual salary and commencement date and to invoice the principal accordingly.

#### Article A5: Responsibility

Vitae is required to invest its best efforts in recruiting and selecting suitable candidates for appointment by the principal within the framework of an order. The principal is responsible for deciding whether to conclude an employment contract with a candidate selected by Vitae and on the contents of that employment contract, the remuneration and the terms of employment. Vitae accepts no responsibility whatsoever for any shortcomings in and/or damage caused by a candidate nominated by Vitae.

#### Article A6: Confidentiality

The principal is not permitted to divulge data on a candidate introduced by Vitae to a third party without obtaining Vitae's prior written permission. In the event of the breach of this article, the principal will forfeit an immediately payable penalty of €25,000 per breach in favour of Vitae, without prejudice to Vitae's right to claim full compensation of damage.

#### Article A7: Invoicing and payment

- a. Vitae will invoice the principal for the fee 14 (fourteen) days before the date of appointment and/or the date on which the candidate selected by Vitae commences work.
- b. The invoice despatched by Vitae must be settled within 21 days of the invoice date. The principal is not authorised to set off any debts or to suspend any payment vis-à-vis Vitae. If the principal fails to settle the invoice in full within the aforementioned period, it will be in default without requiring any further notice of default.
- c. If the principal is in default, it will forfeit immediately payable default interest in favour of Vitae at a rate of 2% of the outstanding principal sum per month, in which connection a part of a month will be deemed to be a full month. In addition, the principal will be required to pay the extra-judicial collection costs - fixed at a minimum of 15% of the principal sum - plus contractual interest; this will be without prejudice to the principal's obligation to reimburse the actual costs of the judicial and extra-judicial collection, if the latter exceed this sum.

#### Article A8: Guarantee clause

- a. If a candidate nominated by Vitae has left the principal's employ within one month of appointment, Vitae will do its utmost to recruit and select a new candidate for the same position for a comparable salary as that for which the first candidate

- was appointed by the principal, but once only and provided that the principal has complied with all its payment obligations vis-à-vis Vitae. In that event, the procedure prescribed in the original order confirmation will start up again.
- b. If the principal wishes to take advantage of the guarantee clause, it must notify Vitae of that fact in writing within 14 (fourteen) days of the termination of the employment contract with the first candidate, in the absence of which the principal will be unable or no longer able to invoke the provisions of this article.
  - c. If Vitae is unable to recruit and select a new candidate for appointment by the principal within three months of the termination of the employment contract with the first candidate, it will reimburse the principal for 50% of the fee paid by the principal (i.e. after the deduction of any other costs). Vitae will not reimburse this fee if the principal has filled the position held by the first candidate (itself or via third parties) within the guarantee period. In the event of reimbursement, Vitae will send the principal a credit note and will pay out the outstanding sum within thirty days.
  - d. If the principal appoints the candidate introduced by Vitae within the framework of this guarantee clause, if Vitae repays 50% of the fee or if the principal has otherwise filled the position held by the first candidate (itself or via third parties) within the guarantee period, Vitae will have been discharged of its obligations under the terms of the guarantee clause.

#### **Article A9: The completion of the order**

An order for recruitment and selection will at any rate be deemed to have been completed as a result of the successful fulfilment of the order, as a result of the cancellation of the order by Vitae or the principal and - if the parties had agreed on a certain period - as a result of the lapse of that period. The completion of an order will not prejudice the principal's obligations vis-à-vis Vitae in connection with the candidates whom Vitae had introduced to the principal.

#### **Article A10: Jurisdiction and disputes**

The agreement and the order, the application and Vitae's quotation will be completely subject to the laws of The Netherlands. The parties hereby explicitly rule out the applicability of any terms and conditions invoked by the principal at any time, unless they agree to derogate therefrom explicitly and in writing. In the event of any disputes, and if the parties are unable to reach agreement, either party will be at liberty to apply to the civil court with jurisdiction. The District Court of Amsterdam will at any rate have jurisdiction to adjudicate on such disputes.

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## **B Recruitment and Selection - Temporary-to-permanent after a pre-agreed period**

#### **Article B1: Scope**

The provisions of this section will be applicable to an order for Vitae for the assignment of a candidate to the principal whereby, in connection with the intention to appoint the candidate permanently, the parties agree that the principal will be able to appoint the candidate permanently free of charge after a pre-agreed period.

#### **Article B2: Definitions**

In this section, the following terms will be construed as set out below:

**Placement:** the assignment of a candidate within the framework of an order.

**Candidate:** the Vitae employee to be placed with the principal in order to provide their services under the principal's leadership and supervision.

**the Principal:** the natural person or legal entity under whose leadership and supervision the candidate provides their services within the framework of the order.

**Fee:** the rate payable by the principal for the placement of a Vitae candidate, excluding surcharges, allowances, costs, expenses and VAT. This fee will be payable per hour, unless the parties agree otherwise.

#### **Article B3: Application and selection**

- a. Before the order commences, the principal must provide Vitae with an accurate description of the position, the job requirements, hours of work, period of employment, tasks, place of work and working conditions, Vitae will select one or more candidates on the basis of the information provided by the principal and these will be introduced to the principal for the execution of the order. The principal is authorised to reject a candidate introduced in this way.
- b. Vitae will not be in default vis-à-vis the principal and will not be required to compensate any damage if its efforts fail to result in the actual placement of a candidate or a placement within the period desired by the principal for any reason whatsoever.
- c. Vitae is authorised to reject or cancel orders at any time if the principal's creditworthiness appears to be insufficient, in Vitae's opinion. In the event of interim termination on these grounds, the order will be invoiced on the basis of its progress. The provisions of article B10 will remain fully applicable.
- d. Vitae is not liable for any damage caused as a result of the placement of a candidate who appears to fall short of the principal's requirements, unless the principal submits a written complaint to Vitae to that effect without delay, but at any rate within eight days of the commencement of the placement, and if it can demonstrate that Vitae is guilty of deliberate or conscious recklessness in its selection procedure.

#### **Article B4: The term of the order**

- a. An order will be concluded for a definite or an indefinite period. An order for a definite period will be concluded for:
  - a fixed period (an order with a pre-agreed termination date); or
  - a specifiable period (an order on a project basis, whereby an objectively specifiable event, for example the completion of the project, will entail the termination of the order); or;
  - a specifiable period not exceeding a fixed period (a project with a maximum termination date).
- b. A fixed-period order will be terminated by the operation of law as a result of the lapse of the agreed period or because of the occurrence of the pre-agreed, objectively-specifiable event. An order for a fixed or an indefinite period can only be terminated in the interim in writing, giving at least one month's notice.

- c. Vitae is authorised to suspend the performance of or to dissolve all the orders concluded between the principal and Vitae in whole or in part without requiring any notice of default and without being held to compensate any damage if:
  - the principal fails to comply with any obligation under the terms of the order or fails to do so promptly; or
  - it is likely that the principal will be unable to comply with its obligations vis-à-vis Vitae or will be unable to do so promptly and/or in full; or
  - the principal has been liquidated, is declared bankrupt or has applied for a suspension of payments.If an order is dissolved, the principal's payment obligations vis-à-vis Vitae will become immediately payable.
- d. The order will be terminated by the operation of law if and as soon as Vitae can no longer place the candidate as a result of the fact that the employment contract between Vitae and the candidate has been terminated and if this employment contract is not subsequently continued on behalf of the same principal. In that event, Vitae will not be guilty of a breach of contract vis-à-vis the principal and neither will it be liable for any damage which the principal suffers as a result.
- e. The termination of the order will not prejudice the principal's obligations vis-à-vis Vitae in connection with Vitae's introduction of the candidates to the principal.

#### Article B5: Position and remuneration

- a. Before the order commences, the principal must provide Vitae with a description of the position to be held by the candidate and the relevant place on the principal's salary scale. The candidate's salary, including any surcharges, allowances, costs and expenses, will be fixed in conformity with the relevant statutory rules and regulations.
- b. The principal must notify Vitae of any changes to the remuneration and the agreed initial salary raises promptly and at any rate as soon as these are announced. Vitae will oncharge the principal for any overtime, shift work, work at non-customary hours or on non-customary days (including public holidays) and/or allowances for systematically working outside normal hours of work (*verschoven uren*) in conformity with the rules and regulations applicable within the principal's organisation.
- c. If it becomes apparent at any time that the candidate's job description and place on the salary scale do not correspond with the tasks performed by him in practice, the principal must provide Vitae with the correct job description and inform it of the relevant place on the salary scale without delay so that the candidate's salary can be reviewed and the fee can be corrected accordingly.

#### Article B6: Hours of work and working week

The candidate's hours of work and working week within the principal's organisation will be recorded in the order confirmation or agreed otherwise. The candidate's hours of work, working week and breaks will be the same as the breaks and hours customarily observed within the principal's organisation, unless the parties explicitly agree otherwise. The principal warrants that the candidate's working week and breaks comply with the statutory requirements and will ensure that the candidate does not exceed the hours of work permitted in law or the agreed working week.

#### Article B7: Leadership and supervision

- a. The tasks will be performed under the overall responsibility, leadership and supervision of the principal, unless the parties explicitly agree otherwise. The principal will observe the same degree of due care vis-à-vis the candidate in providing leadership and supervision as it is required to observe vis-à-vis its own staff.
- b. The principal, in its turn, is not permitted to 're-lend' the candidate to a third party; i.e. to make the candidate available to a third party so that the candidate can render his services under the leadership and supervision of that third party, without Vitae's written permission. In any case of 're-lending' the principal is obliged in his turn to put to agreement with his principal all relevant obligations from this section, especially B6, B8, B10 and B13. Principal is fully responsible towards Vitae for the observance of these obligations.
- c. The principal can only assign the candidate in derogation of the terms of the order and the General Terms if Vitae and the candidate have agreed to this in advance and in writing. Neither can the candidate be assigned outside the Netherlands unless both Vitae and the candidate have agreed to this in writing.

#### Article B8: Working conditions

- a. The principal declares that it is aware of the fact that it will be deemed to be an employer under the terms of the *Arbeidsomstandighedenwet* (the Dutch working conditions act). The principal is responsible vis-à-vis the candidate and Vitae for the compliance with the obligations in terms of safety at work and good working conditions arising from section 7:658 of the Netherlands Civil Code, the aforementioned working conditions act and the relevant rules and regulations.
- b. The principal is required to provide the candidate and Vitae with written information on the desired professional qualifications and the specific characteristics of the position to which the candidate is to be assigned and to do so promptly, and at any rate one work day before the assignment commences. The principal must take the initiative to provide the candidate with information on the Hazard Identification & Risk Assessment analysis (HI&RA) applicable within its organisation and on all the risks and points requiring attention which are specific to the candidate's position and the place of work.
- c. If the candidate has an industrial accident or contracts an industrial disease, the principal must notify the relevant authorities of this, if required in law, without delay and must ensure that a written report is drawn up of such an incident without delay. The report must record the events leading up to the accident in such a way that it is possible to ascertain with a reasonable degree of certainty whether and to which extent the accident is a result of the fact that insufficient measures had been taken to prevent the accident or disease. The principal must inform Vitae of the industrial accident or disease at the earliest opportunity and must provide it with a copy of the relevant report.

#### Article B9: The replacement of a candidate

- a. Vitae is authorised to submit a proposal to replace a candidate assigned to the principal by another candidate without suspending the order, and to do so on the grounds of Vitae's company or personnel policy, the need to protect jobs or its compliance with current legislation or regulations, and specifically the dismissal guidelines laid down by the *Centrum voor Werk en Inkomen* (the executive agency for employee benefits in The Netherlands). The principal may only reject such a proposal on reasonable grounds. If requested to do so, the principal must give reasons for such a rejection in writing.

- b. Vitae will not be guilty of a breach of contract vis-à-vis the principal and will not be required to compensate any damage or costs to the principal if it is not or no longer able to place a (replacement) candidate with the principal in the manner and to the extent agreed in the order or thereafter.
- c. Vitae will not be required to arrange for an immediate replacement in the event of a candidate's disability. If that disability exceeds or threatens to exceed two months, Vitae and the principal will consult each other to decide on the scope for replacement.

#### **Article B10: Temporary-to-permanent**

- a. Unless it obtains Vitae's written permission, the principal or any organisation allied thereto is not permitted to permanently appoint a candidate placed by Vitae (i.e. to appoint the candidate or to let him work on its behalf in a similar way, via third parties or otherwise, without doing so via Vitae) before the candidate has worked at least 1,000 (one thousand) hours within the principal's organisation via Vitae within the framework of that order and after these hours have been invoiced. For certain candidates a longer period applies; this will be mentioned in the order confirmation. After the period as agreed, a permanent appointment will be free of charge.
- b. A principal that concludes a permanent appointment with a temporary candidate within the period referred to in the preceding paragraph will be required to pay Vitae damages of 50% of the most recent fee, multiplied by the number of hours, computed as follows: 1,000 minus the number of hours which the candidate has already worked for the principal via Vitae and which have already been invoiced. The principal's obligation to pay Vitae damages will remain applicable until 12 (twelve) months have elapsed since the last hour which the candidate worked for the principal via Vitae and which have already been invoiced.
- c. Neither is the principal or any organisation allied thereto permitted to conclude an employment relationship with a candidate who had been introduced to it by Vitae within the last 12 (twelve) months within the framework of an order or a potential order, i.e. to appoint such a candidate or to let him work on its behalf in a similar way, via third parties or otherwise, without doing so via Vitae.
- d. A principal that proceeds with an employment relationship as described in the preceding paragraph within the period referred to in the preceding paragraph will be required to pay Vitae damages of 50% of the quoted fee or the most recent or customary fee, multiplied by 1,000 (one thousand) hours. Unless the principal had made a prior and explicit written reservation to that effect, this provision will also be applicable if the principal appears to be already acquainted with a candidate introduced by Vitae in some other way.

#### **Article B11: Suspension**

The principal is not authorised to temporarily suspend the candidate's assignment, in whole or in part, unless it is subject to force majeure in the sense of section 6:75 of the Netherlands Civil Code. If the principal is not subject to force majeure but temporarily has no employment for or cannot assign tasks to the candidate, it will nevertheless be required to pay Vitae the full fee for the duration of the order on the basis of the most recent or the customary number of hours.

#### **Article B12: Company closures**

When concluding the order, the principal must notify Vitae of any company closures and collective compulsory days off in the course of the order, so that Vitae can record these in the employment contract with the candidate to the extent possible. If a company closure and/or collective compulsory days off is or are announced after the order has been concluded, the principal must notify Vitae of this fact immediately after these are announced. If the principal fails to notify Vitae of these promptly, it will be required to pay Vitae the fee for the duration of the company closure in full, on the basis of the number of hours and the overtime customarily worked per period pursuant to the most recent order and the General Terms.

#### **Article B13: The principal's liability**

- a. The principal will be required to compensate the candidate for and must indemnify Vitae against any damage or costs (including the costs of legal counsel) which the candidate suffers in the course of his duties, if and to the extent that the principal and/or Vitae could be held liable therefor in law and specifically pursuant to sections 7:658 (working conditions), 7:611 (good employership) or 6:108 (damages in the event of death) of the Netherlands Civil Code. The principal is also required to compensate the candidate for any damage which the latter suffers as a result of the loss or damage of any of his private property used in connection with the performance of the agreed tasks.
- b. A principal that fails to comply with any of its obligations under the present General Terms will be required to compensate all the damage and costs which Vitae suffers as a result (including the costs of legal counsel), without requiring prior notice of default, and will be required to indemnify Vitae against such claims if necessary. This will not prejudice the fact that Vitae will be authorised to lodge other claims such as a claim for dissolution.
- c. The principal must indemnify Vitae against any liability for Vitae as the candidate's employer in connection with the damage, losses and contracts referred to in this article. To the extent possible, the principal is required to take out adequate insurance against liability on the grounds of the provisions of this article. If Vitae so requests, the principal will provide proof of such insurance.

#### **Article B14: Vitae's liability**

- a. Vitae is required to invest its best efforts to execute an order properly. If and to the extent Vitae fails to comply with this obligation, it will be required to compensate any damage which the principal suffers as a direct result, with due observance of the provisions of the present General Terms, provided that the principal can demonstrate that the damage is the direct result of a breach of contract by Vitae.
- b. Any liability for Vitae arising from the order will be restricted to the fee which Vitae charges the principal for the execution of the order, and will be computed on the basis of the agreed number of hours of work and the agreed term of the order, with a maximum of three months. The maximum sum payable by Vitae will in no event exceed the sum paid out under the terms of its insurance. The parties hereby rule out Vitae's liability for indirect damage, including consequential risk, loss of profits, the inability to make savings or qualify for discounts and damage caused as a result of stagnation in the business processes under any circumstances.
- c. Vitae is not liable vis-à-vis the principal for any damage or loss suffered by the principal, third parties or the candidate himself as a result of any act or omission by the candidate. Vitae is not liable vis-à-vis the principal for any agreement

which a candidate has concluded with or which arises for a candidate vis-à-vis the principal or any third party and which has been concluded with or without the permission of the principal or that third party.

**Article B15: The fee**

- a. The fee payable to Vitae by the principal will be computed over the hours to which Vitae can lay claim under the terms of the order and/or the General Terms and will always at least be computed over the number of hours in fact worked by the candidate. The fee will be multiplied by the surcharges and allowances and increased with the costs and expenses which Vitae is required to pay the candidate. VAT will be payable over the fee, the surcharges, allowances, costs and expenses.
- b. Vitae will be authorised to adjust the fee in the course of the order if the costs thereof rise as a result of or pursuant to changes to social security and tax legislation or to any other binding rules or regulations, or as a result of or pursuant to any collective labour agreement or the wages, salaries, terms of employment, wage or salary rises and/or obligatory payments provided for therein or changes thereto. Apart from this Vitae is entitled to adjust the fee annually as per 1 January on the basis of the 'CBS inflatiecijfer' (the official inflation figure).
- c. Vitae will inform the principal of any changes to the fee at the earliest opportunity and confirm these to the principal in writing. If the remuneration and/or the fee are too low for any reason which can be attributed to the principal, Vitae will also be authorised to bring the remuneration and the fee up to the correct level in retrospect and with retroactive effect. Vitae is also authorised to charge the principal for any deficit in the sums which the principal paid as a result and the costs which Vitae was subsequently required to incur.

**Article B16: Invoicing and timekeeping**

- a. Vitae will invoice the principal on the basis of the agreed timekeeping method. Unless the parties agree otherwise in writing, time will be kept on the basis of the timesheets approved by the principal in writing.
- b. The principal must ensure that the data on the candidate on the timesheets (such as the candidate's name, the number of hours worked, overtime, other hours for which the fee is payable under the terms of the order and the present General Terms, any surcharges, allowances and any costs and expenses incurred in practice) is completed correctly and truthfully. The principal warrants that its staff are authorised to sign the timesheets and accepts all responsibility for the signature of timesheets and the related invoices.
- c. If time is kept on forms supplied by the candidate, the principal will retain a copy of that form. In the event of any discrepancy between the form submitted to Vitae by the candidate and the copy retained by the principal, the form which the candidate submitted to Vitae will serve as full basis for settlement, notwithstanding any evidence the principal may provide to the contrary.

**Article B17: Payment**

- a. The principal is required to settle all the invoices despatched by Vitae within 21 (twenty-one) days of the invoice date at all times. If an invoice is not settled within this period, the principal will be in default by the operation of law as of that date without requiring any notice of default, and will forfeit interest in favour of Vitae at a rate of 2% per month, in which connection a part of a month will be deemed to be a full month. The principal is not permitted to suspend its payment obligations or to set off debts.
- b. The principal will be discharged of its obligations only by making payment to Vitae or to a third party designated by Vitae in writing. Payment to candidates will be non-binding and can never constitute grounds for the clearing of a debt or the setting-off of debts.
- c. All the collection costs will be entirely for the principal's account. The compensation for extra-judicial collection costs is hereby fixed at 15% of the outstanding principal sum, including interest, with a minimum of €500 per claim. This sum will be charged to and payable by the principal without requiring any further evidence as soon as Vitae is required to seek legal advice or if Vitae is required to transfer the debt to a third party for collection.

**Article B18: Intellectual property rights**

- a. If the principal so requests, Vitae will arrange for the candidate to sign a written statement to ensure or promote that all the intellectual property rights which accrue to the candidate on the fruit of his labours are transferred to the principal, to the extent necessary and possible. If Vitae is required to pay the candidate a fee or is otherwise compelled to incur costs in this connection, the principal will be required to compensate Vitae for these costs or for an identical sum.
- b. The principal is at liberty to conclude an agreement with the candidate directly or to request the candidate to sign an undertaking in connection with the intellectual property rights referred to in paragraph 1. The principal must notify Vitae of its intention to do so and must provide Vitae with a copy of the relevant agreement or statement.
- c. Vitae is not liable vis-à-vis the principal for any fine or penalty forfeit by the candidate, or any damage which the principal may suffer as a result of the fact that the candidate invokes any intellectual property rights.

**Article B19: Confidentiality**

- a. Vitae and the principal will divulge no confidential information on or from the other party, their activities and business contacts which came to their attention in the course of the order to third parties, unless, and in that case to the extent that, it is required to make such information available in order to properly execute the order or unless either party are under any statutory obligation to divulge such information.
- b. Specifically, the principal is not permitted to divulge the particulars of a candidate introduced by Vitae to a third party without obtaining Vitae's prior written permission. In the event of the breach of the provisions of this article, the principal will forfeit an immediately payable penalty of €25,000 in favour of Vitae for every breach, without prejudice to Vitae's right to claim full compensation of damage from the principal.
- c. If the principal so requests, Vitae will require the candidate to observe confidentiality on any information which comes to his attention or of which he becomes aware in the course of his duties, unless these are facts which are already in the public domain or unless the candidate is under a statutory obligation to make such information available.
- d. The principal will be at liberty to require the candidate to observe confidentiality directly. The principal must notify Vitae of its intention to do so and must provide Vitae with a copy of the statement or agreement drawn up for this purpose. Vitae will not be liable for any fine or penalty forfeit or any damage suffered by the principal as a result of the candidate's breach of the obligation to observe confidentiality.

**Article B20: Non-discrimination clause**

In order to prevent discrimination, in particular on the grounds of religion, beliefs, political convictions, gender, race, nationality, heterosexual or homosexual orientation, civil status, handicap, chronic illness, age or on any other grounds whatsoever, the principal will be unable to stipulate any requirements which are not relevant to the position, and neither may Vitae take these into account.

**Article B21: Company car**

The principal must notify Vitae without delay if it intends to provide the candidate with a company car. The principal must provide Vitae with the correct data which it requires to compute the candidate's salary in this connection, including the type of car, the catalogue value and the exact period in which the car is at the candidate's disposal. Principal is responsible towards Vitae for any damage as a result of not, incomplete or late provision of data. The principal is required to take out all the insurance required in law and will be liable for any damage arising from the use of the car.

**Article B22: Workers' participation**

The principal is required to give any candidate who is a member of Vitae's or the principal's Works' Council the opportunity to exercise these participatory rights in conformity with the relevant statutory provisions, rules and regulations. The principal will also be required to pay the fee over the hours in which the candidate undertakes these duties or takes any training course in connection with the execution of that participatory position during working hours, but only if the candidate exercises his participatory rights within the principal's organisation.

**Article B23: Jurisdiction and disputes**

The relationship between the principal and Vitae will be completely subject to the laws of the Netherlands. The parties hereby explicitly rule out the applicability of any terms and conditions invoked by the principal, unless they agree to derogate therefrom explicitly and in writing. In the event of any disputes, and if the parties fail to reach agreement on this subject, both parties will be at liberty to apply to the civil court with jurisdiction. The District Court of Amsterdam will at any rate have jurisdiction to adjudicate on such disputes.

**Article B24: Final provision**

If one or more of the provisions of the present General Terms appear to be null, void or voidable, the order and the present General Terms will otherwise remain applicable in full. The provisions which are invalid or which cannot be applied in law will be replaced by new provisions in keeping with the purport of the original provisions to the extent possible.

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## C Vitae Interim Professionals

### Personnel for temporary assignments

**Article C1: Scope**

Vitae can offer a special service, known as Vitae Interim Professionals (VIP), to provide temporary personnel, for example for a special project, on account of illness or to cover a peak in the workload. A VIP is employed by Vitae, is coached, supervised and his performance is appraised by Vitae, and he given courses tailored to the principal's specific needs, but he cannot accept a principal's offer for a permanent employment contract. The provisions of this section will be applicable to an order for Vitae to place a Vitae Interim Professional with a principal on a temporary basis.

**Article C2: Definitions**

In this section, the following terms will be construed as set out below:

**Placement:** the assignment of a Vitae Interim Professional within the framework of an order.

**Vitae Interim Professional:** the Vitae employee to be placed with the principal in order to provide their services under the principal's leadership and supervision.

**the Principal:** the natural person or legal entity under whose leadership and supervision the Vitae Interim Professional provides their services within the framework of the order.

**Fee:** the rate payable by the principal for the placement of a Vitae Interim Professional, excluding surcharges, allowances, costs, expenses and VAT. This fee will be payable per hour, unless the parties agree otherwise.

**Article C3: Application and selection**

- a. Before the order commences, the principal must provide Vitae with an accurate description of the order and the tasks, together with information on the job requirements, the salary scale, hours of work, period of employment, place of work and working conditions, Vitae will select one or more Vitae Interim Professionals on the basis of the information provided by the principal and these will be introduced to the principal for the execution of the order. The principal is authorised to reject a Vitae Interim Professional introduced in this way.
- b. Vitae will not be guilty of a breach of contract vis-à-vis the principal and will not be required to compensate any damage if its efforts fail to result in the actual placement of a Vitae Interim Professional or a placement within the period desired by the principal for any reason whatsoever.
- c. Vitae is authorised to reject or cancel orders at any time if the principal's creditworthiness appears to be insufficient, in Vitae's opinion. In the event of interim termination on these grounds, the order will be invoiced on the basis of its progress. The provisions of article C9 will remain fully applicable.
- d. Vitae is not liable for any damage caused as a result of the placement of a Vitae Interim Professional who appears to fall short of the principal's requirements, unless the principal submits a written complaint to Vitae to that effect without delay, but at any rate within eight days of the commencement of the placement, and if it can demonstrate that Vitae is guilty of

deliberate or conscious recklessness in its selection procedure.

#### **Article C4: The term of the order**

- a. An order will be concluded for a definite or an indefinite period. An order for a definite period will be concluded for:
  - a fixed period (an order with a pre-agreed termination date); or
  - a specifiable period (an order on a project basis, whereby an objectively specifiable event, for example the completion of the project, will entail the termination of the order); or
  - a specifiable period not exceeding a fixed period (a project with a maximum termination date).
- b. A fixed-period order will be terminated by the operation of law as a result of the lapse of the agreed period or because of the occurrence of the pre-agreed, objectively-specifiable event. An order for a fixed or an indefinite period can only be terminated in the interim in writing, giving at least one month's notice.
- c. Vitae is authorised to suspend the performance of or to dissolve all the orders concluded between the principal and Vitae in whole or in part without requiring any notice of default and without being held to compensate any damage if:
  - the principal fails to comply with any obligation under the terms of the order or fails to do so promptly; or
  - it is likely that the principal will be unable to comply with its obligations vis-à-vis Vitae or will be unable to do so promptly and/or in full; or
  - the principal has been liquidated, is declared bankrupt or has applied for a suspension of payments.If an order is dissolved, the principal's payment obligations vis-à-vis Vitae will become immediately payable.
- d. The order will be terminated by the operation of law if and as soon as Vitae can no longer place the Vitae Interim Professional as a result of the fact that the employment contract between Vitae and the Vitae Interim Professional has been terminated and if this employment contract is not subsequently continued on behalf of the same principal. In that event, Vitae will not be guilty of a breach of contract vis-à-vis the principal and neither will it be liable for any damage which the principal suffers as a result.
- e. The termination of the order will not prejudice the principal's obligations vis-à-vis Vitae in connection with Vitae's introduction of the Vitae Interim Professionals to the principal.

#### **Article C5: Hours of work and working week**

The Vitae Interim Professional's hours of work and working week within the principal's organisation will be recorded in the order confirmation or agreed otherwise. The Vitae Interim Professional's hours of work, working week and breaks will be the same as the breaks and hours customarily observed within the principal's organisation, unless the parties explicitly agree otherwise. The principal warrants that the Vitae Interim Professional's working week and breaks comply with the statutory requirements and will ensure that the Vitae Interim Professional does not exceed the hours of work permitted in law or the agreed working week.

#### **Article C6: Leadership and supervision**

- a. The tasks will be performed under the overall responsibility, leadership and supervision of the principal, unless the parties explicitly agree otherwise. The principal will observe the same degree of due care vis-à-vis the Vitae Interim Professional in providing leadership and supervision as it is required to observe vis-à-vis its own staff.
- b. The principal, in its turn, is not permitted to 're-lend' the Vitae Interim Professional to a third party; i.e. to make the Vitae Interim Professional available to a third party so that the Vitae Interim Professional can render his services under the leadership and supervision of that third party, without Vitae's written permission. In any case of 're-lending' the principal is obliged in his turn to put to agreement with his principal all relevant obligations from this section, especially C5, C7, C9 and C12. Principal is fully responsible towards Vitae for the observance of these obligations.
- c. The principal can only assign the Vitae Interim Professional in derogation of the terms of the order and the General Terms if Vitae and the Vitae Interim Professional have agreed to this in advance and in writing. Neither can the Vitae Interim Professional be assigned outside the Netherlands unless both Vitae and the Vitae Interim Professional have agreed to this in writing.

#### **Article C7: Working conditions**

- a. The principal declares that it is aware of the fact that it will be deemed to be an employer under the terms of the *Arbeidsomstandighedenwet* (the Dutch working conditions act). The principal is responsible vis-à-vis the Vitae Interim Professional and Vitae for the compliance with the obligations in terms of safety at work and good working conditions arising from section 7:658 of the Netherlands Civil Code, the aforementioned working conditions act and the relevant rules and regulations.
- b. The principal is required to provide the Vitae Interim Professional and Vitae with written information on the desired professional qualifications and the specific characteristics of the position to which the Vitae Interim Professional is to be assigned and to do so promptly, and at any rate one work day before the assignment commences. The principal must take the initiative to provide the Vitae Interim Professional with information on the Hazard Identification & Risk Assessment analysis (HI&RA) applicable within its organisation and on all the risks and points requiring attention which are specific to the Vitae Interim Professional's place of work.
- c. If the Vitae Interim Professional has an industrial accident or contracts an industrial disease, the principal must notify the relevant authorities of this, if required in law, without delay and must ensure that a written report is drawn up of such an incident without delay. The report must record the events leading up to the accident in such a way that it is possible to ascertain with a reasonable degree of certainty whether and to which extent the accident is a result of the fact that insufficient measures had been taken to prevent the accident or disease. The principal must inform Vitae of the industrial accident or disease at the earliest opportunity and must provide it with a copy of the relevant report.

#### **Article C8: The replacement of a Vitae Interim Professional**

- a. Vitae is authorised to submit a proposal to replace a Vitae Interim Professional assigned to the principal by another Vitae Interim Professional without suspending the order, and to do so on the grounds of Vitae's company or personnel policy, the need to protect jobs or its compliance with current legislation or regulations, and specifically the dismissal guidelines laid down by the *Centrum voor Werk en Inkomen* (the executive agency for employee benefits in The Netherlands). The principal may only reject such a proposal on reasonable grounds. If requested to do so, the principal must give reasons

- for such a rejection in writing.
- b. Vitae will not be guilty of a breach of contract vis-à-vis the principal and will not be required to compensate any damage or costs to the principal if it is not or no longer able to place a (replacement) Vitae Interim Professional with the principal in the manner and to the extent agreed in the order or thereafter.
  - c. Vitae will not be required to arrange for an immediate replacement in the event of the disability of a Vitae Interim Professional. If that disability exceeds or threatens to exceed two months, Vitae and the principal will consult each other to decide on the scope for replacement.

**Article C9: No temporary-to-permanent contract**

- a. The principal or any organisation allied thereto is not permitted, in the course of the order or within 12 (twelve) months of the expiry thereof, irrespective of the reason for the termination, to permanently appoint a Vitae Interim Professional or to let him work on its behalf in a similar way, via third parties or otherwise, without doing so via Vitae.
- b. Neither is the principal or any organisation allied thereto permitted to appoint a Vitae Interim Professional who had been introduced to it by Vitae within the last 12 (twelve) months within the framework of an order or a potential order, or to let him work on its behalf in a similar way, via third parties or otherwise, without doing so via Vitae. Unless the principal had made a prior and explicit written reservation to that effect, this provision will also be applicable if the principal appears to be already acquainted with a Vitae Interim Professional introduced by Vitae in some other way.
- c. In the event of the breach of the provisions of this article, the principal will forfeit an immediately payable penalty of €45,000 in favour of Vitae.
- d. For the purposes of this article, a 'Vitae Interim Professional' will also be deemed to be: a Vitae Interim Professional who was introduced to the principal by Vitae in the preceding 12 (twelve) months and a Vitae Interim Professional whose placement with the principal had been terminated less than 12 (twelve) months before the commencement of the employment relationship.

**Article C10: Suspension**

The principal is not authorised to temporarily suspend the Vitae Interim Professional's assignment, in whole or in part, unless it is subject to force majeure in the sense of section 6:75 of the Netherlands Civil Code. If the principal is not subject to force majeure but temporarily has no employment for or cannot assign tasks to the Vitae Interim Professional, it will nevertheless be required to pay Vitae the full fee for the duration of the order on the basis of the most recent or the customary number of hours.

**Article C11: Company closures**

When concluding the order, the principal must notify Vitae of any company closures and collective compulsory days off in the course of the order, so that Vitae can record these in the employment contract with the Vitae Interim Professional to the extent possible. If a company closure and/or collective compulsory days off is or are announced after the order has been concluded, the principal must notify Vitae of this fact immediately after these are announced. If the principal fails to notify Vitae of these promptly, it will be required to pay Vitae the fee for the duration of the company closure in full, on the basis of the number of hours and the overtime customarily worked per period pursuant to the most recent order and the General Terms.

**Article C12: The principal's liability**

- a. The principal will be required to compensate the Vitae Interim Professional for and must indemnify Vitae against any damage or costs (including the costs of legal counsel) which the Vitae Interim Professional suffers in the course of his duties, if and to the extent that the principal and/or Vitae could be held liable therefor in law and specifically pursuant to sections 7:658 (working conditions), 7:611 (good employership) or 6:108 (damages in the event of death) of the Netherlands Civil Code. The principal is also required to compensate the Vitae Interim Professional for any damage which the latter suffers as a result of the loss or damage of any of his private property used in connection with the performance of the agreed tasks.
- b. A principal that fails to comply with any of its obligations under the present General Terms will be required to compensate all the damage and costs which Vitae suffers as a result (including the costs of legal counsel), without requiring prior notice of default, and will be required to indemnify Vitae against such claims if necessary. This will not prejudice the fact that Vitae will be authorised to lodge other claims such as a claim for dissolution.
- c. The principal must indemnify Vitae against any liability for Vitae, as the employer of the Vitae Interim Professional, in connection with the damage, losses and contracts referred to in this article. To the extent possible, the principal is required to take out adequate insurance against liability on the grounds of the provisions of this article. If Vitae so requests, the principal will provide proof of such insurance.

**Article C13: Vitae's liability**

- a. Vitae is required to invest its best efforts to execute an order properly. If and to the extent Vitae fails to comply with this obligation, it will be required to compensate any damage which the principal suffers as a direct result, with due observance of the provisions of the present General Terms, provided that the principal can demonstrate that the damage is the direct result of an attributable failure by Vitae.
- b. Any liability for Vitae arising from the order will be restricted to the fee which Vitae charges the principal for the execution of the order, and will be computed on the basis of the agreed number of hours of work and the agreed term of the order, with a maximum of three months. The maximum sum payable by Vitae will in no event exceed the sum paid out under the terms of its insurance. The parties hereby rule out Vitae's liability for indirect damage, including consequential risk, loss of profits, the inability to make savings or qualify for discounts and damage caused as a result of stagnation in the business processes under any circumstances.
- c. Vitae is not liable vis-à-vis the principal for any damage or loss suffered by the principal, third parties or the Vitae Interim Professional himself as a result of any act or omission by the Vitae Interim Professional. Vitae is not liable vis-à-vis the principal for any agreement which a Vitae Interim Professional has concluded with or which arises for a Vitae Interim Professional vis-à-vis the principal or any third party and which has been concluded with or without the permission of the principal or that third party.

**Article C14: The fee**

- a. The fee payable to Vitae by the principal will be computed over the hours to which Vitae can lay claim under the terms of the order and/or the General Terms and will always at least be computed over the number of hours in fact worked by the Vitae Interim Professional. The fee will be increased with the surcharges, allowances costs and expenses to the extent applicable. Overtime, work at non-customary hours or on non-customary days (including public holidays) and/or allowances for systematically working outside normal hours of work (*verschoven uren*) will be paid in conformity with the rules and regulations applicable within the principal's organisation and oncharged to the principal, with these figures as the minimum addition:

	06-19 hr	19-00 hr	00-06 hr	00-00 hr
Mon-Friday	100%	125%	150%	
Saturday				150%
Sunday				200%
Dutch Public Holidays (Mon-Fr/Sat-Sunday)				200%

- b. Vitae will be authorised to adjust the fee in the course of the order if the costs thereof rise as a result of or pursuant to changes to social security and tax legislation or to any other binding rules or regulations, or as a result of or pursuant to any collective labour agreement or the wages, salaries, terms of employment, wage or salary rises and/or obligatory payments provided for therein or changes thereto. Apart from this Vitae is entitled to adjust the fee annually as per 1 January on the basis of the 'CBS inflatiecijfer' (the official inflation figure).
- c. Vitae will inform the principal of any changes to the fee at the earliest opportunity and confirm these to the principal in writing. If the fee is too low for any reason which can be attributed to the principal, Vitae will also be authorised to bring that fee up to the correct level in retrospect and with retroactive effect. Vitae is also authorised to charge the principal for any deficit in the sums which the principal paid as a result and the costs which Vitae was subsequently required to incur.

#### Article C15: Invoicing and timekeeping

- a. Vitae will invoice the principal on the basis of the agreed timekeeping method. Unless the parties agree otherwise in writing, time will be kept on the basis of the timesheets approved by the principal in writing.
- b. The principal must ensure that the data on the Vitae Interim Professional on the timesheets (such as the Vitae Interim Professional's name, the number of hours worked, overtime, other hours for which the fee is payable under the terms of the order and the present General Terms, any surcharges, allowances and any costs and expenses incurred in practice) is completed correctly and truthfully. The principal warrants that its staff are authorised to sign the timesheets and accepts all responsibility for the signature of timesheets and the related invoices.
- c. If time is kept on forms supplied by the Vitae Interim Professional, the principal will retain a copy of that form. In the event of any discrepancy between the form submitted to Vitae by the Vitae Interim Professional and the copy retained by the principal, the form which the Vitae Interim Professional submitted to Vitae will serve as full basis for settlement, notwithstanding any evidence the principal may provide to the contrary.

#### Article C16: Payment

- a. The principal is required to settle all the invoices despatched by Vitae within 21 (twenty-one) days of the invoice date at all times. If an invoice is not settled within this period, the principal will be in default by the operation of law as of that date without requiring any notice of default, and will forfeit interest in favour of Vitae at a rate of 2% per month, in which connection a part of a month will be deemed to be a full month. The principal is not permitted to suspend its payment obligations or to set off debts.
- b. The principal will be discharged of its obligations only by making payment to Vitae or to a third party designated by Vitae in writing. Payment to Vitae Interim Professionals will be non-binding and can never constitute grounds for the clearing of a debt or the setting-off of debts.
- c. All the collection costs will be entirely for the principal's account. The compensation for extra-judicial collection costs is hereby fixed at 15% of the outstanding principal sum, including interest, with a minimum of €500 per claim. This sum will be charged to and payable by the principal without requiring any further evidence as soon as Vitae is required to seek legal advice or if Vitae is required to transfer the debt to a third party for collection.

#### Article C17: Intellectual property rights

- a. If the principal so requests, Vitae will arrange for the Vitae Interim Professional to sign a written statement to ensure or promote that all the intellectual property rights which accrue to the Vitae Interim Professional on the fruit of his labours are transferred to the principal, to the extent necessary and possible. If Vitae is required to pay the Vitae Interim Professional a fee or is otherwise compelled to incur costs in this connection, the principal will be required to compensate Vitae for these costs or for an identical sum.
- b. The principal is at liberty to conclude an agreement with the Vitae Interim Professional directly or to request the Vitae Interim Professional to sign an undertaking in connection with the intellectual property rights referred to in paragraph 1. The principal must notify Vitae of its intention to do so and must provide Vitae with a copy of the relevant agreement or statement.
- c. Vitae is not liable vis-à-vis the principal for any fine or penalty forfeit by the Vitae Interim Professional, or any damage which the principal may suffer as a result of the fact that the Vitae Interim Professional invokes any intellectual property rights.

#### Article C18: Confidentiality

- a. Vitae and the principal will divulge no confidential information on or from the other party, their activities and business contacts which came to their attention in the course of the order to third parties, unless, and in that case to the extent that, it is required to make such information available in order to properly execute the order or unless either party are under any statutory obligation to divulge such information.
- b. Specifically, the principal is not permitted to divulge the particulars of a Vitae Interim Professional introduced by Vitae to a third party without obtaining Vitae's prior written permission. In the event of the breach of the provisions of this article, the principal will forfeit an immediately payable penalty of €25,000 in favour of Vitae for every breach, without prejudice to

- Vitae's right to claim full compensation of damage from the principal.
- c. If the principal so requests, Vitae will require the Vitae Interim Professional to observe confidentiality on any information which comes to his attention or of which he becomes aware in the course of his duties, unless these are facts which are already in the public domain or unless the Vitae Interim Professional is under a statutory obligation to make such information available.
  - d. The principal will be at liberty to require the Vitae Interim Professional to observe confidentiality directly. The principal must notify Vitae of its intention to do so and must provide Vitae with a copy of the statement or agreement drawn up for this purpose. Vitae will not be liable for any fine or penalty forfeit or any damage suffered by the principal as a result of the Vitae Interim Professional's breach of the obligation to observe confidentiality.

**Article C19: Non-discrimination clause**

In order to prevent discrimination, in particular on the grounds of religion, beliefs, political convictions, gender, race, nationality, heterosexual or homosexual orientation, civil status, handicap, chronic illness, age or on any other grounds whatsoever, the principal will be unable to stipulate any requirements which are not relevant to the position, and neither may Vitae take these into account.

**Article C20: Company car**

The principal must notify Vitae without delay if it intends to provide the Vitae Interim Professional with a company car. The principal must provide Vitae with the correct data which it requires to compute the candidate's salary in this connection, including the type of car, the catalogue value and the exact period in which the car is at the candidate's disposal. Principal is responsible towards Vitae for any damage as a result of not, incomplete or late provision of data. The principal is required to take out all the insurance required in law and will be liable for any damage arising from the use of the car.

**Article C21: Workers' participation**

The principal is required to give any Vitae Interim Professional who is a member of Vitae's or the principal's Works' Council the opportunity to exercise these participatory rights in conformity with the relevant statutory provisions, rules and regulations. The principal will also be required to pay the fee over the hours in which the Vitae Interim Professional undertakes these duties or takes any training course in connection with the execution of that participatory position during working hours, but only if the Vitae Interim Professional exercises his participatory rights within the principal's organisation.

**Article C22: Jurisdiction and disputes**

The relationship between the principal and Vitae will be completely subject to the laws of the Netherlands. The parties hereby explicitly rule out the applicability of any terms and conditions invoked by the principal, unless they agree to derogate therefrom explicitly and in writing. In the event of any disputes, and if the parties fail to reach agreement on this subject, both parties will be at liberty to apply to the civil court with jurisdiction. The District Court of Amsterdam will at any rate have jurisdiction to adjudicate on such disputes.

**Article C23: Final provision**

If one or more of the provisions of the present General Terms appear to be null, void or voidable, the order and the present General Terms will otherwise remain applicable in full. The provisions which are invalid or which cannot be applied in law will be replaced by new provisions in keeping with the purport of the original provisions to the extent possible.