

# General Terms & Conditions

*Version: June 2024*

## 1. APPLICABILITY

- 1.1 These General Terms & Conditions are applicable to all Engagements.
- 1.2 We shall perform the Engagement with due observance of the applicable professional rules and regulations and national and international legislation and regulations.

## 2. INCEPTION OF THE ENGAGEMENT

- 2.1 The Engagement shall take effect as soon as we have received the written agreement regarding the Engagement duly signed by you and us, except if article 2.3 below applies.
- 2.2 At our first request you shall provide all information and documentation that we need in order to comply with our obligations under the Dutch Act on the prevention of money laundering and terrorist financing. We reserve the right to assess whether the identification and verification are in accordance with the above Act.
- 2.3 If we have not yet received the signed Engagement, the Engagement shall be deemed to have been established under these General Terms & Conditions as soon as we have started performing the Engagement at your request.

## 3. YOUR OBLIGATIONS

- 3.1 If an Engagement requires your cooperation, you shall provide us with all information and documents that we require for proper and timely execution of the Engagement and you shall do so on time and in the form and manner that we require.
- 3.2 You shall inform us without delay of the legal and control structure of the group to which you belong, and of any changes therein, as well as of all other financial and other alliances in which you participate or to which you belong, all in the broadest sense of the word, and also of any other facts and circumstances that may be relevant to the execution of the Engagement to enable us to meet the applicable independence rules.
- 3.3 We shall assist you in determining the scope of the Engagement, but you alone shall bear the responsibility for determining this scope and for taking decisions (partially) based on, or in connection with, our services.
- 3.4 We shall perform the Engagement on the basis of the financial and other information provided to us in respect of the Engagement, including any meetings that we hold with you or, at your request, with third parties. You undertake to ensure that the information you provide is correct and complete. You hereby agree that if we receive

information from third parties in respect of the Engagement, we can assume, without any need for further verification, that this information is correct and complete.

- 3.5** Any additional costs and damage or loss caused by a delay in the execution of the Engagement resulting from failure to make the requested information, facilities and/or staff available, or failure to do so on time or in the proper form, shall be for your account and risk.
- 3.6** In the case of Engagements that we perform at your premises, you shall ensure the provision of such office space and means of electronic communications that we consider necessary or useful for performing the Engagement and that comply with all statutory and other requirements.

#### **4. EXECUTION OF THE ENGAGEMENT**

- 4.1** We shall provide all services to the best of our knowledge and ability, and in accordance with professional standards. We shall be bound by a best-efforts obligation in relation to the (intended) services.
- 4.2** We shall determine the manner in which the Engagement will be executed and by whom. In situations in which the Engagement is explicitly intended to be performed by a specific natural person, the applicability of Sections 404 and 407(2) of Book 7 of the Dutch Civil Code is explicitly excluded.
- 4.3** We may provide, and charge you for, any additional services if the need for such services arises by virtue of any national or international legislation and regulations, including professional rules and regulations, applying to the Engagement.
- 4.4** Information provided to us by you shall be returned to you, at your request, after completion of the Engagement. We shall keep our own (electronic) working files on the Engagement, containing copies of in our opinion relevant documents, which shall remain our property.
- 4.5** Our administration (including e-mails and digital scans of engagement letters for example) serves as full evidence for you, except where you provide evidence to the contrary.
- 4.6** During the execution of the Engagement, we shall not be deemed to have access to information originating from any other Engagements that have been or are being performed for you.

#### **5. CONFIDENTIALITY AND DATA PROTECTION**

- 5.1** Unless (i) we are required under any provision in the applicable national or international legislation and regulations, including professional rules and regulations, to disclose information, or (ii) we or persons affiliated with or working for us act in any disciplinary, civil, administrative or criminal proceedings in which this information may be of importance, Toskr Capital shall neither disclose Confidential Information nor provide such Confidential Information to third parties, unless permitted under the applicable terms and conditions or with your consent.

- 5.2** You agree, within the scope of (i) an Engagement commissioned by you to us, (ii) compliance with obligations under national or international legislation and regulations, including professional rules and regulations to which we are subject, (iii) risk management and quality review requirements, (iv) client relationship management, administrative and invoicing purposes, and (v) using administrative and/or IT support services, that we shall process Confidential Information concerning you and/or persons (formerly) working for, or affiliated with, you, your clients or third parties, including sharing this information with: (a) Toskr Capital personnel other than those involved in the performance of the Engagement; and (b) Toskr Capital-subcontractors; and (c) third parties for scientific research to be undertaken by them to guarantee the quality of our services; and (d) our insurers, or legal or financial advisers.
- 5.3** You agree that we, and our Affiliates, may use Confidential Information and other information provided by or on behalf of you within the framework of, amongst other things, compiling and maintaining best practices, to develop, enhance, modify and improve technologies, tools, methodologies, services and offerings, and/or for development or performance of data analysis or other insight generation (including statistics, research purposes and/or benchmarking). We, and our Affiliates, will not use or disclose Confidential Information in a way that would permit you to be identified by third parties without your consent.
- 5.4** To support our business operation we have the right to use Cloud services.
- 5.5** We shall take appropriate measures in order to protect the Confidential Information and shall inform any third parties and employees that we engage of the confidential nature of the information.
- 5.6** We shall have the right to mention your name and sketch a broad outline of the services provided to potential and existing clients as an illustration of our experience.
- 5.7** Except where any national or international legislation or regulations, including professional rules and regulations, require you to disclose information, or except where we have given our prior written consent, you shall not disclose, or provide to third parties, any Confidential Information, including information concerning the Engagement, the content of reports, opinions or any other written or oral statements issued by us.
- 5.8** The Parties shall impose their obligations under this article on any third parties that they engage.
- 5.9** You shall only provide Personal Data to Toskr Capital that is necessary for the performance of the Engagement.
- 5.10** By providing Personal Data to Toskr Capital you confirm that both the provision of this Personal Data to Toskr Capital and your instruction or request to Toskr Capital to process this Personal Data are in compliance with the GDPR and your internal privacy policy.
- 5.11** You will comply with all requirements under the GDPR, including the obligation to inform data subjects of the provision of their Personal Data to Toskr Capital and the processing thereof by Toskr Capital in accordance with the Engagement.

- 5.12** For the purposes described in this article 5, we may transmit Personal Data to countries outside of the European Economic Area (EEA) if the recipient is deemed to offer a sufficient level of protection on the basis of the GDPR.

## **6. INTELLECTUAL PROPERTY**

- 6.1** We reserve all intellectual property rights in relation to products of the intellect that we use or have used and/or develop or have developed within the framework of the execution of the Engagement in respect of which we hold or can exercise copyrights or other intellectual property rights.
- 6.2** You are explicitly prohibited from reproducing, publishing or using for commercial purposes, whether alone or involving third parties, those products, including computer programs, systems designs, working methods, opinions, contracts and model contracts, brands and logos and our other products of the intellect, all in the broadest sense of the word. These products may not be reproduced and/or published and/or used for commercial purposes without our prior written consent. You have the right to reproduce the written documents for your own internal use insofar as this is in line with the purpose of the Engagement. This provision shall apply mutatis mutandis if the Engagement is terminated early.

## **7. FEE/PAYMENT**

- 7.1** Our fee shall be exclusive of our out-of-pocket expenses, exclusive of any fees charged by third parties engaged by us and exclusive of any turnover tax and other levies that are or may be imposed by government authorities. We shall recharge the costs of any such out-of-pocket expenses, third-party fees, taxes and levies to you.
- 7.2** If any pricing factors, such as salaries and/or rates, are subject to change between the inception date and completion date of the Engagement, we shall have the right to adjust the previously agreed fee accordingly.
- 7.3** Unless specified otherwise, payment of our fee is due, without any deduction, discount or debt settlement, within 30 days of the invoice date. Payments, denominated in the currency indicated in the invoice, shall be remitted to a bank account designated by us.
- 7.4** Complaints about or objections to any amounts charged shall not suspend your obligation to pay.
- 7.5** All judicial and extrajudicial (collection) costs that we incur in connection with your failure to comply with your (payment) obligations shall be for your account. The Parties hereby declare that the provisions of the Dutch Extrajudicial Collection Costs Regulation Decree, containing additional rules on the reimbursement of extrajudicial costs, shall not apply. We reserve the right to demand reimbursement of the costs actually incurred.
- 7.6** If we believe that your financial position and/or payment performance justifies such action, we have the right to demand that you immediately furnish security or additional security in a form to be determined by us and/or make an advance

payment. If you fail to furnish the desired security or make the desired advance payment, we have the right, without prejudice to our other rights, to immediately suspend any further execution of the Engagement, and all amounts you owe us, for whatever reason, shall become immediately due and payable.

- 7.7** In the event of a jointly commissioned Engagement, all clients are jointly and severally liable for payment of the full fee charged insofar as the services were provided for the clients jointly.

## **8. COMPLAINTS**

- 8.1** We must be notified in writing and within 60 days of the date of dispatch of documents or information in respect of which you are filing a complaint, subject to the risk of forfeiture, of any complaints relating to the services provided and/or the invoice amount or, if you prove that you could not have reasonably discovered that defect, error or shortcoming earlier, within 60 days of the discovery of the defect, error or shortcoming.
- 8.2** Complaints as referred to in the first paragraph shall not suspend your obligation to pay. Under no circumstance shall you be entitled, by virtue of a complaint in respect of a certain service, to defer or refuse payment for other services provided by us to which the complaint does not relate.
- 8.3** If you filed a legitimate and timely complaint, you shall have the choice between us adjusting the fee charged, having the rejected service rectified or redone free of charge, or terminating the Engagement (or remaining services) in exchange for a refund proportionate to the fee already paid by you.

## **9. DELIVERY PERIOD**

- 9.1** If you are required to make an advance payment or to make information and/or materials available that is/are required for execution of the Engagement, the term for completing the services will not start until we have received the payment in full or until all information and/or materials have been made available to us respectively.
- 9.2** The due dates for completion of the services shall be regarded as strict deadlines only if this has been agreed in writing in advance.
- 9.3** Unless execution of the Engagement proves to be permanently impossible, you shall not terminate the Engagement on account of us failing to meet a deadline, unless we do not perform the Engagement, either partially or in full, within a reasonable period of which we have been notified in writing after expiry of the agreed delivery period.

## **10. EARLY TERMINATION OF THE ENGAGEMENT**

- 10.1** Either Party has the right to terminate the Engagement in writing, with due observance of a reasonable notice period.
- 10.2** Either Party is entitled to terminate the Engagement, either partially or in full, in

writing and with immediate effect, without notice of default or judicial intervention being required, if the other Party has been granted a provisional or final suspension of payment, or has been declared insolvent or bankrupt, or if its business is or shall be wound up or discontinued.

- 10.3** If you decide to terminate the Engagement early, we shall be entitled to compensation for services already provided and for any costs that we reasonably have to incur as a result of the early termination of the Engagement (including costs relating to subcontracting), unless the termination was motivated by facts and circumstances that can be attributed to us. If we terminate the Engagement early, you are entitled to our assistance in transferring work to third parties, unless the termination was motivated by facts and circumstances that can be attributed to you.

## **11. LIABILITY**

- 11.1** We shall provide our services to the best of our ability and exercise the due care that may be expected of us. If errors are made as a result of the provision to us of incorrect or incomplete information by you or a third party, we shall not be liable for any resulting damage. Our total liability to you for any errors that would have been prevented if we had exercised due care, is limited to a maximum of three times the fee paid and/or owed by you for the specific services provided under the Engagement from which the errors resulted, subject to a maximum of € 250,000. If the Engagement has a term of more than twelve months, the total liability within the scope of the Engagement shall be limited to a maximum of three times the fee paid by you and/or owed by you for the most recent twelve months for the specific services provided under the Engagement from which the errors resulted, subject to a maximum of €250,000. This limitation of liability shall not apply in case of wilful misconduct or gross negligence (in Dutch: 'opzet of bewuste roekeloosheid') on our part.
- 11.2** If the Engagement is carried out for more than one (legal) entity/person, the limitation of liability with respect to the Engagement shall apply to all these (legal) entities/persons jointly. In the event of liability, it is up to this group of (legal) entities/persons to share the maximum amount of damages awarded among themselves.
- 11.3** You shall indemnify us and hold us harmless against any claims by any party other than you that may arise as a result of any failure on your part to comply or to comply properly with any obligation arising from the Engagement and/or these General Terms & Conditions, unless you demonstrate that the losses do not relate to imputable acts or omissions on your part, or were caused by wilful misconduct or gross negligence (in Dutch: 'opzet of bewuste roekeloosheid') on our part. This indemnification shall apply also in respect of any shareholders, directors of shareholders, managing directors or employees of us or third parties, including our Affiliates, whom we engage for the performance of the Engagement, who shall accordingly be able to invoke this indemnification directly. Notwithstanding the foregoing, this indemnification shall not apply if and insofar any mandatory national or international legislation or regulation, including professional rules and regulations, dictate otherwise.
- 11.4** You and/or your group companies shall exercise any rights of action or recourse

exclusively against us, and not against our current or former shareholders, directors of our shareholders, managing directors or employees engaged by us. You explicitly agree that you and/or your group companies shall not bring any action, claim, or demand for compensation or otherwise, that may arise out of or in connection with the Engagement and/or these General Terms & Conditions, against our current and former shareholders, directors of our shareholders, managing directors and/or employees engaged by us. The aforementioned (legal) persons shall have the right to rely on the foregoing and, to the extent necessary, the aforementioned is an irrevocable third-party beneficiary clause (in Dutch: 'onherroepelijk derdenbeding om niet').

- 11.5** We shall not be held liable for any consequential, indirect, or punitive damage and/or loss of profit.
- 11.6** We reserve the right to engage (some of) the services of Toskr Capital-subcontractors when performing the Engagement. The Engagement shall be executed under our exclusive responsibility and you and/or your group companies shall not bring any claim (whether in contract, tort or otherwise) against any Toskr Capital-subcontractor, partner or employee of Toskr Capital-subcontractors in connection with the performance of the Engagement. Our Affiliates, their current and former shareholders, directors of their shareholders, managing directors and/or employees shall have the right to rely on the foregoing and, to the extent necessary, the aforementioned is an irrevocable third-party beneficiary clause (in Dutch: 'onherroepelijk derdenbeding om niet'). We are entitled to compensation of damage, loss and costs resulting from any violation of this provision.
- 11.7** Your rights of action and other powers of whatever nature with respect to us arising from the Engagement in any way, shall lapse after one year from the date on which the damage or loss for which we are held liable first manifested itself and in any event after five years from the date on which the event causing the damage or loss occurred.

## **12. CONTRACT TAKEOVER**

Unless we give our express written consent, you shall not be permitted to assign the Engagement, or any obligation laid down in it to third parties. We shall be entitled to attach conditions to our consent, which shall not be withheld on unreasonable grounds. You undertake in any case to impose on the third party all relevant payment and other obligations laid down in the Engagement and these General Terms & Conditions. In addition to the third party, you shall continue to be jointly and severally liable for the obligations laid down in the Engagement and these General Terms & Conditions.

## **13. USE OF THE INTERNET**

The Parties may communicate with each other via electronic means of communication. The Parties recognise the risks associated with the use of electronic communications, including but not limited to distortion, delays, interception, manipulation and viruses. The Parties hereby declare that they shall not hold each other liable for any damage or loss incurred by either of them as a result of the use of electronic communications. This also applies to the use of electronic communications – irrespective of the form – between us and third parties, including but not limited to Dutch or other tax authorities.

The Parties shall do or omit all that can reasonably be expected of them to avoid such risks.

#### **14. WAIVER OF RIGHTS**

Our rights and powers under the Engagement shall not be affected or limited by our failure to directly enforce any rights or powers. Notice to waive any right or power laid down in or ensuing from any provision or condition of the Engagement must be given in writing.

#### **15. CONVERSION**

If and to the extent that any provision of the Engagement cannot be invoked in all reasonableness and fairness, or by virtue of its unreasonably onerous nature, the provision in question shall in any event be accorded a meaning corresponding as closely as possible to its original purport and tenor so that this provision can nevertheless be invoked.

#### **16. CONTINUED EFFECT**

The provisions of the Engagement, which are intended, either expressly or tacitly, to remain in effect even after termination of the Engagement, shall have continued effect after the Engagement has been terminated and shall continue to bind the Parties.

#### **17. CONTRADICTORY CLAUSES/PRECEDENCE**

If these General Terms & Conditions and the written Engagement contain conflicting conditions, the conditions of the written Engagement shall prevail. Deviation from these General Terms & Conditions can be agreed only in the written agreement in which we undertake to provide services to you.

#### **18. RECRUITMENT BAN**

During the execution of the Engagement and within one year of termination of the Engagement, neither Party shall employ persons who are or were involved in executing the Engagement on behalf of the other Party or conduct negotiations with such persons about employment, other than in consultation with the other Party. If, despite the above ban, a Party decides to employ one or more persons who were involved in executing the Engagement on behalf of the other Party, the first Party undertakes to pay to the other Party at least the recruitment costs that the latter incurs in recruiting one or more replacement workers.

#### **19. APPLICABLE LAW AND JURISDICTION**

**19.1** All Engagements contracted between the Parties and the negotiations of these Engagements shall be governed by the laws of the Netherlands.

**19.2** Any disputes between the Parties relating to Engagements contracted between them shall in the first instance be referred to the competent Court in Groningen, Netherlands.



## 20. DEFINITIONS

The following definitions shall apply to these General Terms & Conditions:

<i>Affiliates</i>	All legal entities and persons that operate and provide services under the Toskr Capital brand and are connected to separate member firms of the Toskr Capital Group.
<i>Cloud services</i>	Services via the internet whereby Toskr Capital uses the software, hardware and storage space of third parties and/or makes personal data available to suppliers of this software, hardware and storage space.
<i>Confidential Information</i>	The existence of the Engagement and all information and technology provided by Parties to each other in the context of the Engagement in any form whatsoever, including further specifications, figures, know-how, the contents of reports, recommendations or other expressions of Parties, written or otherwise, including Personal Data. Confidential Information does not include information that (a) is already in or has become part of the public domain without this being due to breach of the confidentiality obligations under the Engagement and/or (b) has been independently developed by the receiving Party without reference to or use of Confidential Information.
<i>Engagement</i>	The oral or written agreement in which we undertake to provide services to you.
<i>GDPR</i>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
<i>Party or Parties</i>	You and/or We.
<i>Personal Data</i>	Personal data within the meaning of Article 4(1) of the GDPR.
<i>We or us</i>	The legal entity to whom the Engagement is issued: Toskr Capital Management B.V.
<i>You, you or the client</i>	The party for whom the Engagement is performed.
<i>Toskr Capital-subcontractors</i>	Our Affiliates and other subcontractors and suppliers, including IT (Cloud) services.