

## **1. INTRODUCTION**

- 1.1** Unless otherwise agreed in writing, each offer from, and each contract with, AGO Construct NV is governed by these Conditions of Contract, which consist of a general conditions part and a conditions part specifically relating to temporary employment agency work, all of which form an integral part of the contract and take precedence by operation of law over the purchase conditions or other conditions of the Client.
- 1.2** Deviation from or amendment to these conditions may only be argued against AGO Construct NV if it has given its written consent. The present conditions shall therefore apply unaltered and without prejudice to any provision of services for which a derogation or modification has been requested or proposed by the Client and which has not been expressly accepted in writing by AGO Construct NV.

## **2. GENERAL CONDITIONS OF CONTRACT**

### **2.1 Definitions**

- 2.1.1** Employee: any person or legal entity called upon by AGO Construct NV for the execution of the Contract with the Client, irrespective of the legal relationship between them, in particular but not limited to employees, independent consultants and subcontractors.
- 2.1.2** Contract: the concrete cooperation between the parties as shown by a written agreement, an accepted offer, general and/or special conditions, etc.
- 2.1.3** Services: all services provided by AGO Construct NV, in particular but not limited to the organisation of temporary employment agency work (search for assignments, search and recruitment of temporary employees, ...), recruitment and selection, payrolling and training.
- 2.1.4** Client: any (legal) person who makes use of the Services of AGO Construct NV and/or purchases Services from it.

### **2.2 Correspondence and period**

- 2.2.1** For the performance of the Contract, 'in writing' means any medium which allows the content of the communication to be materialised on a durable carrier, in particular but not limited to paper documents and e-mail.
- 2.2.2** If any provision of the general conditions is null and void or is annulled, the other provisions of the general conditions shall remain in full force and effect. In such a case, AGO Construct NV and the Client shall, by mutual agreement, replace the void provision by a provision which corresponds as closely as possible to the purpose and purport of the void or nullified provisions.
- 2.2.3** All correspondence in which the Client invokes one or more contractual provisions of the general conditions, or requests the execution of one or more provisions, shall only be valid to AGO Construct NV when addressed to the registered office of the parties. If the Client addresses such correspondence to AGO Construct NV by regular or registered mail, he will always send a copy by e-mail ([info@ago.jobs](mailto:info@ago.jobs)). Any such correspondence sent by regular or registered mail without such a copy shall be deemed never to have been received by AGO Construct NV.
- 2.2.4** Without prejudice to the foregoing, correspondence by regular or registered mail shall be deemed to have been received on the third working day following its posting. Correspondence by e-mail received by AGO Construct NV before 4.00 p.m. shall be deemed to have been received for the performance of the parties' obligations at the time of receipt indicated on that letter. Correspondence by e-mail received by AGO Construct NV after 4.00 p.m., or on a Saturday, Sunday or public holiday, will be deemed to have been received at 9.00 a.m. the next working day for the performance of the parties' obligations.
- 2.2.5** If, pursuant to the Contract between the Client and AGO Construct NV, a specific commitment must be performed on a Saturday, Sunday or public holiday, this commitment will be performed in good time on the next working day. Saturday is not considered a working day. The same shall apply to the expiry of any time limits arising from the Contract.

### **2.3 Quotations and price agreements**

- 2.3.1** All price calculations, quotations and other offers made by AGO Construct NV are of an indicative nature only and are not binding, unless otherwise indicated in writing by AGO Construct NV.
- 2.3.2** The Client is responsible for the correctness and completeness of the information necessary for the price calculation provided by him or on his behalf to AGO Construct NV. The Client will at all times ensure that the requirements to be met by the performance of AGO Construct NV are correct, accurate and complete.
- 2.3.3** All quotations of AGO Construct NV for the provision of certain Services are always drawn up based on a cost-plus contract unless it is expressly agreed in writing between the parties that one or more of those Services will be provided at a fixed price.

### **2.4 Price and payment**

- 2.4.1** All prices are exclusive of VAT and any other taxes or levies. Unless otherwise agreed, all prices are in euros and the Client must make all payments in euros.
- 2.4.2** If the Clients consists of several natural persons and/or legal entities, these are jointly and severally liable for payment of the amounts due. This obligation also applies to the companies listed in the appendix/appendices to the cooperation agreement between the Client and AGO Construct NV.
- 2.4.3** All invoices are payable at the registered office of AGO Construct NV. Unless otherwise agreed in writing, payment must be made in cash, without discount and in euros. All payment costs are to be borne by the Client. Payment by bank transfer, bill of exchange or in any other way, cannot be accepted as a waiver of this provision and does not imply novation.
- 2.4.4** If, in accordance with the cooperation agreement or any other ground, a credit note has to be granted to the Client, it will only be granted to the Client insofar as all expired invoices have been paid.
- 2.4.5** All complaints or remarks concerning an invoice must be made within 5 days after the invoice date by registered and motivated letter, under penalty of forfeiture.
- 2.4.6** If the Client does not pay the amounts due or does not pay them on time, the Client shall, without any notice of default being required, be liable to pay default interest on the balance still due at a rate of 12% per annum. In addition, the Client is also liable to pay a fixed indemnity clause on the total outstanding principal amount of 12% (with a minimum of € 125.00), even in the event of the granting of periods of grace and without prejudice to AGO Construct NV's right to claim compensation for any additional loss suffered.
- 2.4.7** If AGO Construct NV's confidence in the Client's credit standing is undermined by a court decision against the Client, a negative opinion of a credit rating agency and/or demonstrable events, which call into question and/or render impossible the confidence in the proper execution of the commitments entered into by the Client, AGO Construct NV reserves the right to suspend all or part of the order and to demand appropriate guarantees and/or cash payment from the Client. If the Client refuses to accept this, AGO Construct NV reserves the right to cancel all or part of the order. In such a case, the Client shall be liable to pay compensation as further stipulated in these general conditions.
- 2.4.8** If payment terms or agreements have been agreed with the Client that deviate from the Articles 2.4.3 - 2.4.5, these will irrevocably expire as soon as even one payment term has been exceeded; Without prejudice to the possibilities provided for in Articles 2.4.6 and 2.4.3 - 2.4.5, the Client will in that case go back to the general regulation contained in Articles 2.4.3 - 2.4.5.

- 2.4.9 Partial payments are always accepted with all reservations and without adverse acknowledgement, and allocated in priority to any legal costs incurred, then to the accrued interest, then to the indemnity clause, and finally to the principal sum. Non-payment on the due date of a single invoice makes the balance due of all other invoices, even those not due, immediately due and payable by operation of law. These invoices remain due and payable from this moment onwards, regardless of their respective due dates, upon payment of the already overdue invoices.
- 2.4.10 The possibility for the Client to suspend his payment obligations (non-execution exception or exceptio non adimpleti contractus) is explicitly excluded, as well as the possibility for the Client to proceed to compensation of mutually owed amounts.
- 2.4.11 All rates and costs will be unilaterally increased by AGO Jobs & HR in the event of an increase in direct or indirect employer burdens, legal or regulatory changes affecting the actual cost, as well as any other factors determining the actual labor cost, along with an increase in the operating costs of AGO Jobs & HR. They will, in any case, be adjusted annually by applying the indexing according to the general consumer price index (reference: index of the month of October). If, for determining coefficients/rates or granting credit notes, certain (training) subsidies, exemption from withholding tax, or other discounts and allowances are taken into account and are subsequently not (fully) acquired by AGO Jobs & HR, or if they must be (partially) reimbursed by AGO Jobs & HR, AGO Jobs & HR will additionally invoice the amounts not acquired or reimbursed to the Client or adjust the credit notes previously granted to the Client for this purpose.
- 2.4.12 Deviation from the agreed prices is also possible in the following cases, which are listed non-exhaustively: (1) in cases where certain factual information provided by the Client does not appear to correspond to reality, (2) in case of material errors, arithmetical errors or errors in the price calculation of AGO Construct NV, and (3) in case of additional works or changes to the initial order.

## 2.5 Confidentiality

- 2.5.1 The Parties shall ensure that all information received from the other party that is known or reasonably ought to be known to be confidential in nature shall remain secret.
- 2.5.2 The Client is prohibited from communicating to third parties the agreement(s) entered into with the temporary employment agency, including the rates, unless with the written permission of AGO Construct NV.
- 2.5.3 In the relationship with the Employees involved in the performance of the Contract, the parties will make the necessary contractual arrangements so that these Employees would be bound by the same confidentiality obligation.
- 2.5.4 The party receiving confidential information will only use it for the purpose for which it has been provided. Information will in any case be considered confidential if it has been designated as such by one of the parties.
- 2.5.5 Upon termination of all Contracts concluded between the Parties, the Parties shall destroy all documents and files relating to Products delivered and which contain confidential data.

## 2.6 Delivery period

- 2.6.1 All (completion) dates communicated or agreed by AGO Construct NV have been determined on the basis of the data known to it at the time of entering into the Contract. Interim or final (delivery) dates communicated or agreed between the parties by AGO Construct NV are purely indicative and always apply as target dates, unless it has been expressly agreed in writing that the communicated or agreed dates have a binding and effective character. In any case, AGO Construct NV must make sufficient effort to observe the interim or final (delivery) dates as much as possible.
- 2.6.2 AGO Construct NV is not bound by interim or final (completion) dates which can no longer be met due to causes beyond its control and which occurred after entering into the Contract. Nor is AGO Construct NV bound by interim or final (completion) dates in the event of delays in accordance with Articles 2.7.5 or 2.8.3 or as a result of a change in the approach to the execution of the Contract.
- 2.6.3 If there is a risk of any deadline being exceeded, AGO Construct NV and the Client will consult in good time in order to discuss the consequences of the delay for further planning and to limit the negative consequences as much as possible.
- 2.6.4 The mere exceeding of interim or final delivery dates communicated by AGO Construct NV or agreed between the parties does not in itself constitute a breach of contract. In all cases - even if the parties have expressly agreed in writing that the communicated or agreed interim or final delivery dates are binding as effective delivery dates - there will only be a first instance of a breach of contract on the part of AGO Construct NV due to an exceeding of interim or final delivery dates after the Client has expressly given him notice of default in writing. This notice of default must be clear and concrete, and must contain a description of the shortcoming that is as complete and detailed as possible, in order to allow AGO Construct NV to take all appropriate and necessary measures.
- 2.6.5 If the Client refuses the agreed Services despite notice of default, or if the Client fails to perform his obligation, AGO Construct NV may, by registered letter to the Client, invoke the termination of the agreement by operation of law to the detriment of the Client. If a partial delivery or execution has already taken place when the Client refuses or makes further delivery or execution impossible, AGO Construct NV can, subject to registered letter to the Client, opt for invoicing the executed part of the delivery or the work, and for the dissolution by operation of law of the agreement at the expense of the Client for the part not delivered or not executed.
- 2.6.6 Without prejudice to AGO Construct NV's right to claim higher compensation for the damage it proves, on dissolution of the agreement, the Client will be liable for compensation the minimum of which, taking into account the potential damage, will be fixed at 25% of the price exclusive of V.A.T., or where applicable, the price exclusive of V.A.T. of the part not yet delivered. AGO Construct NV will also have the right, if necessary, to suspend in whole or in part the further execution of both the relevant and other agreements for the same Client. The Client will also be informed of this by registered letter.

## 2.7 Obligations to cooperate

- 2.7.1 The parties acknowledge that the efficient course and result of a service provision depends to a very large extent on correct and timely mutual cooperation. In order to enable AGO Construct NV to execute the Contract efficiently and correctly, the Client will always provide AGO Construct NV with all useful and necessary data or information in a timely manner and will provide all the cooperation requested.

If the Client deploys Employees in the context of cooperating in the performance of the Contract, they must have the necessary knowledge, expertise and experience.

2.7.2 If the Client does not provide AGO Construct NV with useful or necessary data, documents, equipment, software, materials or employees for the execution of the Contract, or does not do so on time or in accordance with the agreements made, or if the Client fails to fulfil his obligations in any other way, or fails to do so on time, AGO Construct NV is entitled to suspend the execution of the Contract in whole or in part. AGO Construct NV also has the right to charge the costs incurred as a result in accordance with its usual rates, without prejudice to AGO Construct NV's other possibilities to safeguard its rights.

2.7.3 In the event that AGO Construct NV's Employees carries out work at the Client's location, the Client shall ensure free of charge that these Employees have the necessary facilities at their disposal, such as a workspace with computer, data and telecommunication facilities. The workspace and facilities will comply with all applicable labour law regulations. The Client indemnifies AGO Construct NV against claims from third parties, including AGO Construct NV's Employees, who, in the framework of the execution of the Contract, would suffer damage resulting from a breach by the Client of this Article or from an unsafe situation (an unsafe situation or unsafe situations) on the Client's premises. The Client shall, by way of mere information, communicate the employment regulations to AGO Construct NV prior to commencement of the work. Should mandatory safety regulations apply at the Client's location, the Client will inform AGO Construct NV in advance and explicitly and provide AGO Construct NV with a copy of the safety regulations.

2.7.4 If in the execution of the Contract computer, data or telecommunication facilities are used at the Client's premises, including the Internet, the Client is responsible for their timely and full availability, except for those facilities under the direct use and management of AGO Construct NV. AGO Construct NV can never be held liable for any damage or costs resulting from failures or non-availability of these facilities, unless the Client proves that such damage or costs are the result of intent or deliberate recklessness on the part of AGO Construct NV's Employees. Where applicable, section 2.18 of the Conditions of Contract is applicable.

2.7.5 In the event of failure by the Client to comply, or to do so on time, with the cooperation obligations set out in this section, the periods agreed between the parties will be extended for the duration of the delay caused by the Client, without prejudice to the provisions of section 2.6.

## 2.8 [Changes and additional work](#)

2.8.1 If, at the request or with the prior consent of the Client, AGO Construct NV has provided Services falling outside the subject of the Contract, such work or services will be remunerated by the Client in accordance with the agreed rates. In the absence of an agreement relating to the rates for additional work, these interventions will be provided in accordance with the usual rates of AGO Construct NV. AGO Construct NV is never obliged to comply with such a request and may require that the arrangements for the intended additional work between the parties be laid down in advance and in writing.

2.8.2 Insofar as a fixed price has been agreed for the provision of services, this fixed price relates exclusively to the initial object of the Contract. Changes and/or additional work will always be invoiced by AGO Construct NV to the Client on the basis of a cost-plus contract. In the absence of an agreement concerning the rates for additional works, these interventions will be provided in accordance with the usual rates of AGO Construct NV.

2.8.3 The Client accepts that the work or performance for alterations or additional work may affect the interim or final (completion) dates communicated or

agreed by AGO Construct NV as stipulated in section 2.6.1, as well as the mutual obligations of the Client and AGO Construct NV. If necessary, the deadlines agreed between the parties will be extended for the duration of the changes or additional work, without prejudice to the provisions of section 2.6.1.

2.8.4 The fact that one or more obligations of AGO Construct NV as a result of changes or additional work ordered by the Client have not been fulfilled, have not been fulfilled on time or have not been fulfilled in full, may never constitute grounds for the Client to claim compensation or to terminate the Contract in accordance with section 2.15.

## 2.9 [Non-solicitation employees and clientele](#)

2.9.1 For the duration of the collaboration with AGO Construct NV, as well as 24 months after the end of this collaboration, the Client is prohibited from contracting directly or indirectly with one or more AGO Construct NV's Employee(s). If the Contract covers several contractual relationships, the longest lasting contractual relationship will be taken into account for the purposes of this Article.

2.9.2 The recruitment referred to in 2.9.1 is permitted if the Client has obtained the prior, express and specific written consent of AGO Construct NV with regard to the employment of one or more named AGO Construct NV Employees. AGO Construct NV may, if necessary, attach conditions to this consent.

2.9.3 The damages suffered by AGO Construct NV in the event of a breach by the Client of Articles 2.9.1 and 2.9.2 will be contractually fixed at the total gross compensation excluding employer's charges of the Employees hired during a period of 12 months prior to recruitment, without prejudice to the right of AGO Construct NV to prove and claim the more damages suffered.

2.9.4 The Client carrying out all or part of the same activities as AGO Construct NV, or working in the same sector, shall refrain, during and within a period of 24 months following the termination or expiry of the Contract, from actively approaching or recruiting AGO Construct NV's clientele. In the event of a breach of this obligation, the damage suffered by AGO Construct NV will be contractually fixed at the total of the amounts invoiced (excluding VAT) over the last three years to the acquired clientele. The date of the first provision of services by the Client to the clientele recruited is the reference date.

2.9.5 For the prohibitions described in this Section, that "Client" should also be taken to mean all companies affiliated and associated with the Client in accordance with Title 4, Chapter 3 of the Code of Companies and Associations.

## 2.10 [Performance by Employees](#)

2.10.1 Unless agreed otherwise, the Contract between the parties, to the extent that it concerns a service is never of a personal nature, and AGO Construct NV always has the right to replace the Employee(s) it calls upon for the execution of the Contract by another/other Employee(s) with the same level of knowledge and professional experience.

## 2.11 [External Tools](#)

2.11.1 As part of the execution of its contract with the Client, AGO Construct NV may use digital tools to support one or more processes relating to the recruitment and selection, planning and/or employment of temporary employees...

The use of this tool (both internal and external) cannot under any circumstances be considered as part of the services included in the cooperation agreement between AGO Construct NV and the Client.

AGO Construct NV therefore reserves the right to modify/cancel both the use of the tool and its supplier unilaterally at any time, without prior notification to or approval of the Client.

## **2.12** [Client reference](#)

- 2.12.1 Unless otherwise agreed in writing, AGO Construct NV is entitled to use the Client as a reference for marketing and commercial purposes without having to ask the Client for additional express consent. Acceptance of these conditions constitutes consent.

## **2.13** [Defects and complaints procedure](#)

- 2.13.1 Remarks about the Services provided must be reported to AGO Construct NV, under penalty of inadmissibility, by registered letter no later than 48 hours after delivery or completion. In any event, complaints may no longer be accepted if the Services provided have been expressly accepted or implemented in any way whatsoever.
- 2.13.2 At AGO Construct NV's discretion, the legitimately refused Services may either be resubmitted or credited. Re-doing and/or crediting will never give rise to any compensation of any kind.
- 2.13.3 In any case, a complaint cannot relieve the Client of the obligation to pay the amount of the invoices on the dates specified in the contract and in accordance with the conditions stipulated. Moreover, a complaint, even if well-founded, does not authorise the Client to refuse the execution of the agreement for Services that are not the subject of the complaint.

## **2.14** [Intellectual Property Rights](#)

- 2.14.1 All intellectual property rights to the systems, procedures, data files, etc. developed or supplied by AGO Construct NV or documents made available, and all preparatory materials thereof, or other materials such as analyses, designs, calculations, illustrations, documentation, reports, belong exclusively to AGO Construct NV. Insofar as such a right is only obtained by means of filing, registration or patent, AGO Construct NV is exclusively authorised to do so.
- 2.14.2 The invoicing and payment thereof by the Client shall only serve as remuneration for the material services and costs, and may under no circumstances be considered as compensation for the transfer of any intellectual property rights. The transfer of such rights can only be effected by concluding an additional written agreement specifically and explicitly providing for a transfer.
- 2.14.3 The Client only acquires the rights of use expressly granted to him in the general conditions. A right of use granted to the Client is limited to the agreed conditions and is non-exclusive, non-transferable to third parties. The granted rights of use apply exclusively to personal use by the Client. The Client is not permitted to process or commercialise the systems, procedures or information provided.
- 2.14.4 The Client is not permitted to remove or change any indication concerning the confidential nature or concerning copyrights, software rights, database rights, brands, trade names or any other intellectual property right from communicated or transferred items.
- 2.14.5 Parties may only deviate from Article 2.14.3 to the extent to which and to the extent that the transfer of certain intellectual property rights is made in writing, expressly, well-defined and specific. If the parties agree in writing that an intellectual property right relating to a procedure, software, data file, etc. specifically developed for the Client will be transferred to the Client, this does not affect the right or ability of AGO Construct NV to use and/or exploit the know-how, general principles, ideas, designs,

Interfaces, algorithms, source codes, documentation, works, programming languages, protocols, standards, etc. underlying that development, either for itself or for third parties, without any restriction, for other purposes and for other Clients. Likewise, the transfer of an intellectual property right does not affect the right of AGO Construct NV to make developments for itself or a third party similar to or derived from those designed and developed for the Client.

- 2.14.6 Even if the Contract does not expressly provide for a power to do so, AGO Construct NV is authorised to fit technical or other facilities to protect the systems, data files, programs, etc. developed or compiled in order to safeguard its rights or an agreed restriction of use. The Client may never remove or bypass any such facility.

## **2.15** [Protection of personal data](#)

### **Recruitment and selection order**

- 2.15.1 If AGO Construct NV carries out recruitment and selection assignments for the Client, personal data within the meaning of the Law of 8 December 1992 on the protection of privacy with regard to the processing of personal data and, from 25 May 2018, Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC will be exchanged between AGO Construct NV and the Client.

In this context, AGO Construct NV and the Client are considered to be the Candidates' Processing Manager.

Should one of the parties nevertheless act as Processor, a processing agreement will be concluded as provided for in Regulation 2016/679.

- 2.15.2 The Client declares to comply with its obligation within the meaning of the aforementioned legislation.
- 2.15.3 The Client is aware that the protection of personal data is of particular importance to AGO Construct NV, and that breaches of his obligations as data controller may cause major damage to AGO Construct NV, in particular damage to its image and reputation.
- 2.15.4 Without prejudice to the possibility for AGO Construct NV to claim higher compensation for the actual damage caused by the breach of the obligations set out in this Article, in the event of a breach of contract, the Client will be liable to pay fixed compensation of € 12,500.00 and such a breach will always constitute a breach of contract justifying the immediate termination of the Contract.
- 2.15.5 The Client declares that he has read and been sufficiently informed of AGO Construct NV's Privacy Policy, which can be consulted at any time via [www.ago.jobs](http://www.ago.jobs).

### **Cooperation other temporary employment agency**

- 2.15.6 In the event that AGO Construct NV, in collaboration with another temporary employment agency, is responsible for the supply of temporary employees, a partnership will be formed between them whereby both temporary employment agencies will operate either separately or together. If this is done jointly, one temporary employment agency may act as a "Master", which means that this office is the main supplier of the temporary employees. The other temporary employment agency is regarded as the "Vendor", which means that this temporary employment agency either has the smallest share in the Client's applications/turnover of temporary employment agency work or is only called in by the "Master" if the "Master" fails to complete the Client's applications (in time).

If personal data are exchanged between both temporary employment agencies because the Master performs tasks on behalf of the Vendor, such as, for example,

making available and maintaining the work clothing of the Vendor's temporary employees, providing for the reception of the Vendor's temporary employees, creating an access badge for the Vendor's temporary employees, ... then the Master should be considered the processor and the Vendor in this situation the controller. Consequently, a processing agreement must be drawn up for this purpose.

## 2.16 [Transfer of rights and obligations](#)

2.16.1 The Client is not permitted, without the express consent of AGO Construct NV, to transfer the rights and/or obligations arising from this agreement to a third (legal) person.

2.16.2 AGO Construct NV may at all times transfer its payment claims to a third party. Where relevant, Section 5.179 of the Belgian Civil Code is applicable.

## 2.17 [Dissolution and termination of the agreement](#)

2.17.1 For the purposes of this section, any Contract entered into between the parties shall always be individually terminated or dissolved. The termination or dissolution of one of the contracts concluded between the parties shall never automatically entail the termination or dissolution of (an) other contract(s) concluded between the parties.

2.17.2 Each party may, in accordance with Section 5.91 of the Belgian Civil Code, legally request the dissolution of the Contract at the expense of the other party, if the latter has failed to fulfil one or more essential obligations in an attributable and substantial manner.

2.17.3 Parties expressly agree that they may only exercise their right to dissolution within a reasonable period of time after the breach of contract and after having served notice of default on the other party by registered letter or bailiff's writ. This reasonable period can never be longer than 2 months after the occurrence of the breach/breaches of contract. In the notice of default, one of the parties must describe in detail and with reasons to the other party the breach/breaches of contract that is/are acknowledged, as well as grant the other party a final period of grace, in view of the purification of the breach/breaches of contract. This grace period must be at least 2 weeks. In the absence of the aforementioned notice of default or period of grace, any claim for dissolution in court is inadmissible. Any claim for dissolution shall lapse by the mere expiry of 24 months after the breach of contract has occurred.

2.17.4 For the application of Article 2.17.2, the payment obligations, obligations to cooperate by the Client or a third party to be engaged by the Client, the non-solicitation clause and the provisions regarding the protection of personal data must be regarded as essential obligations.

2.17.5 Regardless of the method of dissolution of the Contract - judicial or extrajudicial - the consequences of the dissolution between the Parties can only have an effect towards the future, and the obligations already performed or due on the part of the Parties will continue to exist in full (dissolution ex nunc). Consequently, if at the time of dissolution, AGO Construct NV has already provided services to the Client in accordance with Article 2.17.2, these services and the related payment obligations cannot be the subject of dissolution, unless the Client proves that AGO Construct NV is in default with regard to an essential part of that obligation. Amounts invoiced by AGO Construct NV prior to the dissolution in connection with services already performed and delivered, remain unimpaired and become immediately due and payable as a result of the dissolution.

2.17.6 If a Contract has been entered into for an indefinite period of time, it may be terminated in writing by either party without giving reasons, taking into account the agreed notice period. If no notice period has been agreed between the parties, a reasonable period of notice must be observed. This period amounts to a minimum of 3 months, to be increased by 1 month per started year from the second year,

but must always be concretely estimated by the terminating party in the light of the circumstances, the importance of the agreement, the period already elapsed and the costs that such termination may entail for AGO Construct NV. Parties will not be liable to pay any compensation as a result of termination, unless one of the parties is guilty of breach of contract during the notice period in accordance with Article 2.17.2. However, payment will be due for all costs actually incurred and services rendered until the end of the Contract.

2.17.7 If the Contract has been entered into for a period determined to be renewable annually, Article 2.17.6 also applies, on the understanding that the Contract can only be terminated on each occasion by the date on which the period renewed annually expires. The same notice period as in Article 2.17.6 applies.

2.17.8 Should the Client fail to comply with the aforementioned modalities of termination and notice(s), she will be liable to pay compensation equal to the usual compensation of AGO Construct NV corresponding to the duration of the (non-respected) notice period or the remaining part thereof. The usual fee is calculated on the basis of the monthly average of the 12 months prior to termination, or all previous months if the cooperation has lasted less than 12 months.

2.17.9 Either party may terminate the Contract without notice of default and with immediate effect in writing if the other party is declared bankrupt, is dissolved and put into liquidation, or has become manifestly insolvent. As a result of such termination, AGO Construct NV can never be obliged to return or pay any monies already received or to pay damages. In case of bankruptcy, dissolution and liquidation, or manifest insolvency of the Client, the right to use software, websites, etc. supplied to the Client expires without prior notice of default and with immediate effect.

2.17.10 The dissolution or termination of a (framework) Contract automatically entails the termination of all attachments and any related contracts that are without value without the framework contract.

## 2.18 [Force Majeure](#)

2.18.1 Neither party is obliged to fulfil any obligation, including all guarantee obligations agreed between the parties, if that party is prevented from doing so as a result of force majeure, in particular but not limited to:

- a. Natural disasters;
- b. Epidemics;
- c. Force majeure on account of supplier of AGO Construct NV:
- d. Failure by suppliers to comply properly with obligations called upon by AGO Construct NV at the express request of the Client;
- e. Defectiveness in goods, equipment, software or materials of third parties which AGO Construct NV calls upon at the express request of the Client;
- f. Government measures;
- g. Power failure;
- h. Internet, computer network or telecommunication facilities failure;
- i. War and serious political unrest;
- j. Staffing establishment and strikes;
- k. General transport problems;
- l. Unavailability of one or more specific staff members.

2.18.2 If a situation of force majeure lasts longer than 90 days, either party has the right to terminate the Contract in writing. Services already provided to the Client by AGO Construct NV will be invoiced proportionately to the Client. Otherwise, the parties will no longer owe each other anything.

## **2.19 Indemnification**

- 2.19.1 Unless otherwise expressly agreed in writing, the carrying out of an investigation into the existence of any intellectual property rights of third parties is not part of AGO Construct NV's mission. Consequently, AGO Construct NV can never be held liable for damage that could result from possible infringements of such protected rights. Unless otherwise expressly agreed in writing, such research must be carried out by the Client himself, who is exclusively liable for it.
- 2.19.2 The Client also guarantees that the data and data files, documentation or other materials transmitted to AGO Construct NV for the purpose of use, processing, installation or incorporation in and/or delivery of systems or programs, are not subject to any rights of third parties, at least that the Client has obtained the prior written consent of such third party, if any. The Client shall indemnify AGO Construct NV against any claim by a third party based on the aforementioned data files, documentation or other materials.
- 2.19.3 The Client will indemnify AGO Construct NV against all claims of third parties due to infringement of the rights of these third parties, in particular but not limited to infringements by the Client of the intellectual property rights of these third parties, unless the Client is able to prove that the infringement was committed by or is the result of an intervention of AGO Construct NV.
- 2.19.4 The Client shall indemnify AGO Construct NV against all claims from authorities, tax administrations, etc., directed at AGO Construct NV but originating from violations by the Client of certain regulations and laws.

## **2.20 Liability**

- 2.20.1 The total liability of AGO Construct NV on account of an attributable, contractual or extra-contractual breach is limited to the compensation of the direct loss up to a maximum amount of the price actually invoiced for that contract (excl. of VAT). If the Contract is a continuing performance contract with a term of more than one year, the price stipulated for the Contract will be set at the total of the fees (excl. of VAT) stipulated for one year. Under no circumstances will the total liability of AGO Construct NV for direct loss, for whatever reason, exceed € 25,000.00.
- 2.20.2 The liability of AGO Construct NV for damage due to death, physical injury or because of material damage to property shall never exceed € 75,000.00 in total.
- 2.20.3 The liability of AGO Construct NV for indirect damage, in particular but not limited to consequential damage, loss of profit, financial or commercial losses, missed savings, increase in general costs, increased personnel costs, reduced goodwill, damage due to business stagnation, damage resulting from claims by buyers of the Client, Damage relating to the use of goods, materials or software of third parties suggested by AGO Construct NV to the Client and damage relating to the use by the Client of suppliers suggested by AGO Construct NV, damage due to disruption of planning and loss of clientele is expressly excluded. The liability of AGO Construct NV for damage, destruction or loss of data or documents is also expressly excluded.

- 2.20.4 The exclusions and limitations of liability of AGO Construct NV as contained in Articles 2.20.1 to 2.20.3 leave all other exclusions and limitations of liability based on the general conditions unimpaired.
- 2.20.5 The exclusions and limitations of liability referred to in Article 2.20.1 up to and including 2.20.3 do not apply if and insofar as the damage is the result of an intentional act on the part of AGO Construct NV.
- 2.20.6 The Client acknowledges and accepts that AGO CONSTRUCT NV may be assisted by auxiliaries in the performance of its obligations. Unless otherwise required by mandatory legal provisions, the Client waives the right to bring any contractual or non-contractual liability claims against AGO CONSTRUCT NV's auxiliaries within the meaning of Article 6.3 §2 of the Civil Code. AGO CONSTRUCT NV's auxiliaries may invoke this article as third-party beneficiaries.
- 2.20.7 Unless compliance by AGO Construct NV is permanently impossible, the Client can only invoke the liability of AGO Construct NV after having given AGO Construct NV notice of default by registered letter or bailiff's writ within a reasonable period after the occurrence of the damage. This reasonable period can never be longer than 2 months after the occurrence of the damage. In this notice of default, the Client must describe in a reasoned and detailed manner to AGO Construct NV the damage claimed and its cause, and grant AGO Construct NV a final period of grace to repair, if possible, the damage in kind of at least 2 weeks. In the absence of the aforementioned notice of default or period of grace, the Client loses his right to possible compensation. Any claim for damages against AGO Construct NV expires by the mere expiry of 24 months after the occurrence of the damage.

## **2.21 Applicable law, jurisdiction and authority**

- 2.21.1 The contract(s) between AGO Construct NV and the Client are governed exclusively by Belgian law.
- 2.21.2 Article 2.21.1 also applies in the case of an application for the grant of a provisional or protective measure, whether or not in interlocutory proceedings, even if the provisions of the law on international jurisdiction could derogate from Article 2.21.3.
- 2.21.3 The Belgian courts and tribunals have exclusive jurisdiction to hear any dispute between the Client and AGO Construct NV regarding the creation, interpretation, performance and termination of the Contract between the parties. The courts of the judicial district of West Flanders, section Kortrijk, have exclusive jurisdiction, without prejudice to Article 2.19.4. This provision of jurisdiction also applies in the event of a request for the granting of a provisional or protective measure, whether or not in summary proceedings.
- 2.21.4 In deviation of Article 2.21.3, claims whose exclusive object is the collection of invoice amounts already due and payable can, at the discretion of AGO Construct NV, be brought before the courts of the judicial district of West Flanders, department Kortrijk or the courts that are competent to take cognizance of the dispute in accordance with Section 624 of the JC. For all other claims between the parties involved, Article 2.21.3 remains applicable.
- 2.21.5 Any mediation or legal proceedings conducted between the parties must always be conducted in Dutch. If conducting proceedings in Dutch would not be permitted by law, the proceedings will take place in the following languages (in order of preference): English, French or the language determined by law.

### **3. CONTEMPORARY EMPLOYMENT AGENCY WORK** **SPECIAL CONDITIONS OF CONTRACT**

#### **3.1 General**

- 3.1.1 These special conditions of contract for temporary employment agency work have been drawn up in accordance with the legislation in force, i.e. the Act of 24 July 1987 on temporary employment, temporary employment agency work and the hiring-out of employees for clients, including the applicable CLA's (CAOs) of the National Labour Council (NLC) and of the Joint Committee (PC) 322 temporary employment agency work, as well as the Act of 14 July 1991 on trade practices.
- 3.1.2 The temporary employees are proposed and/or made available under the conditions agreed upon at the time of application as well as the conditions set out below, which form an integral part of the Contract concluded between AGO Construct NV and the Client or Client. In the event of contradictions, however, the conditions agreed upon at the time of the application take precedence.
- 3.1.3 Pursuant to the Act of 24 July 1987 on temporary employment, temporary employment agency work and the hiring out of employees for the benefit of Clients, a written agreement is concluded between the client and AGO Construct NV within seven working days of the commencement of the temporary employee's employment. This contains the information required by law. In addition to the commercial framework agreement, use is made of variable weekly supplements, which form an integral part of the framework agreement and do not have to be signed on a weekly basis. Termination of the framework agreement automatically entails termination of the appendices to that agreement.
- 3.1.4 The conditions set out below also apply as soon as the client entrusts an application to the temporary employment agency and/or the temporary employment agency proposes candidates to the client.
- 3.1.5 Any amendment to one of these conditions for temporary employment agency work provided at the time of the order must be included in writing in an appendix to the original agreement.
- 3.1.6 Deviation from or amendment to the present conditions may only be invoked against AGO Construct NV if AGO Construct NV has given its written consent.

#### **3.2 Definitions and general provision(s)**

- 3.2.1 AGO Construct NV: the actual employer of the Temporary Employee, whose management and registered office are located at Wolvenstraat 23 in 8500 Kortrijk (tel.no. +32 56 20 31 75 - e-mail [info@ago.jobs](mailto:info@ago.jobs)), also referred to as 'Temporary Employment Agency'.
- 3.2.2 Client: the Client who calls upon the services of AGO Construct NV within the meaning and within the framework of the Temporary Employment Agency work Act of 24 July 1987.
- 3.2.3 Temporary Employee: the employee selected/employed by AGO Construct NV who is bound by an employment contract for temporary employment agency work to be placed at the disposal of one or more Clients, or, as the case may be, the candidate Temporary Employee proposed by AGO Construct NV to the Client.
- 3.2.4 For the application of these conditions and in particular Articles 3.9.1 and 3.9.2, an employment relationship is understood to mean entering into an employment relationship with the Temporary Employee:

- a. The Client enters into an employment or training agreement with the Temporary Employee;
- b. Having the Temporary Employee in question made available to the Client by a third party (including another temporary employment agency);
- c. Entering into an agreement for services with the Temporary Employee or with a third party who has recruited the Temporary Employee for this purpose;
- d. Entering into an employment relationship between the Temporary Employee and a third party, whereby the Client and such third party belong to the same group, are parent companies or subsidiaries of each other or are affiliated or associated companies, as defined in the Code of Companies and Associations.

#### **3.2.5 For the application of these Conditions and in particular Articles 3.9.1. and 3.9.2., gross annual salary of the Temporary Employee is to mean:**

- a. If the Temporary Employee has already worked: the last applicable hourly rate x the average number of hours per week x 4.33 x 13.92 applicable in the Client's sector. The extras such as luncheon vouchers (employer's contribution x 230 working days), bonuses, commissions, the monetary value of a company car, expense allowances and all other employee benefits must be added.
- b. If the candidate Temporary Employee has not yet worked: the salary applicable to the Client for the position concerned (with as a minimum the scales of the Client's PC) x the average number of hours per week x 4.33 x 13.92 applicable in the Client's sector. To this should be added the extras such as bonuses, commissions, the monetary value of a company car, expense allowances and all other employee benefits.

#### **3.2.6. For the application of these conditions and in particular Articles 3.9.1. and 3.9.2., 'operating costs' means: all costs related to the selection and recruitment process such as prospection and screening of the market, contact and interviews with potential candidates, screening and selection of candidates, creation and administrative follow-up of candidate files, contacts with the client/potential employer, etc.**

#### **3.3 Rights and obligations Client**

- 3.3.1 The Client undertakes to inform AGO Construct NV at the start and during the duration of the agreement of all necessary information and, moreover, any change, without delay and in writing, among other things and without being exhaustive with regard to the following points:
- a. The reason for the appointment of a Temporary Employee;
  - b. The presence of a trade union delegation;
  - c. In the case of an inflow of staff, the number of employment attempts and the period of employment of the attempts per workplace;
  - d. The daily and weekly performance of the Temporary Employee;
  - e. The conditions of remuneration of his own staff (competent joint committee, wage scales), including all benefits and the conditions for granting any bonuses that are customarily applied.
  - f. Any change in the remuneration of his own employees (pursuant to agreements at company or sector level)

- that may be relevant to the remuneration of the Temporary Employees made available;
- g. The professional qualification required, the activities to be carried out by the temporary employee and the specific characteristics of the workplace;
  - h. The required personal protective equipment, the results of any (special) risk assessments and medical examinations;
  - i. The non-renewal or non-extension of the agreement (e.g. the non-renewal of a 'weekly contract');
  - j. Any lateness for work or shortcoming on the part of the Temporary Employee;
  - k. Possible situations of strike or lock-out or other forms of temporary unemployment.
  - l. Compliance with all conditions for the exemption from the remittance of payroll withholding tax for shift and night work pursuant to Article 275/5 of the Belgian Income Tax Code 1992 (WIB 92), without prejudice to all agreements and obligations in accordance with Article 3.4 of these special contractual terms and conditions.
- 3.3.2 The variable entries will be part of the weekly attachment to the agreement, which will be made available electronically via MyAGO and will be consulted and kept up to date there by the Client. These weekly attachments do not need to be signed and form an integral part of the commercial framework agreement between the Client and AGO Construct NV. The Client will always timely send its digital data to AGO Construct NV.
- 3.3.3 In determining prices and in consultation with the Client, AGO Construct NV takes into account potential benefits arising from applicable social and/or tax legislation and/or subsidies. The Client assumes full responsibility for all information provided in this regard and is solely responsible for any consequences resulting from its non-timely, insufficient, or incorrect submission. If it is revealed that the Client does not effectively meet all conditions for the granting of such benefits, leading to retroactive correction and forfeiture for the future, AGO Construct NV reserves the right to invoice the entire correction to the Client and adjust the agreed-upon pricing. Additionally, in the event of changes in legislation related to tax and/or social benefits or subsidies, AGO Construct NV reserves the right to adjust its prices to fully offset the cost impact of these modified laws.
- Furthermore, the client is responsible for keeping the required supporting documents according to the legal retention periods as mandated by the applicable regulations.
- 3.3.4 The schedule communicated to AGO Construct NV by the Client can only be cancelled by the Client in so far as there is not yet an employment contract for temporary work between the Temporary Employee and AGO Construct NV.
- 3.3.5 The Client bears the liability for the correct application of the motives and deadlines for temporary employment agency work; in the context of the motives, he shall, in the cases provided for by the law, provide the necessary permits and communications with regard to the employment of temporary employees.
- 3.3.6 The Client undertakes to only state job-related criteria in all applications and not to mention criteria that may involve discriminatory treatment.
- 3.3.7 The Client undertakes to provide, before the commencement of employment through AGO Construct NV, the job site sheet with necessary information about the risks and inconveniences associated with the workplace, precautions to be taken, personal protective equipment that the temporary worker must wear, as well as any required health surveillance. If health surveillance is mandatory, the employment agency, in accordance with the provisions of the Code on Well-being at Work, is responsible for this health surveillance and any necessary vaccinations. Depending on the agreement in the cooperation contract with AGO Construct NV, the cost of this is invoiced to the Client. The

employment agency informs the Client of the date of this health surveillance. Up to 48 hours before the examination, AGO Construct NV can cancel the health surveillance free of charge. If, after this 48-hour period, the Client requests AGO Construct NV to cancel the examination or if the temporary worker does not show up, AGO Construct NV invoices the cost of this examination, possibly increased with other damages suffered by AGO Construct NV, to the Client. This invoicing does not apply if it can be proven that the temporary worker was absent on their own initiative. If the Client does not provide a job site sheet, AGO Construct NV assumes that no health surveillance is required.

- 3.3.8 The Client undertakes not to allow the Temporary Employee to start up before AGO Construct NV has been able to verify that the identity card and work permit allow employment. The Client shall, if necessary, cooperate in order to enable AGO Construct NV to carry out this verification. Under no circumstances and regardless of any precautions taken by AGO Construct NV, AGO Construct NV can be held liable for identity fraud that occurs during the employment at the Client.

- 3.3.9 The client undertakes not to submit applications for recruitment to AGO Construct NV for an employment that falls under PC 124.

- 3.3.10 Specifically with a view to the punctual and correct registration of all legal information at DIMONA, the Client undertakes to inform AGO Construct NV immediately and in writing, both at the start and during the duration of the agreement:

- a. All data necessary for the DIMONA employment registration;
- b. The date and time of effective commencement of the performances of the Temporary Employee, as well as the date and time on which the performances are terminated (prematurely or not);
- c. Any (late) presence or absence of the Temporary Employee.

Outside office hours, the client can always call the emergency number 070 22 22 66 to register a schedule.

The Client is responsible for any financial sanction imposed on AGO Construct NV by the NSSO / FPS Employment, Labour and Social Dialogue as a result of failure to comply with the reporting obligations to DIMONA, and which is the result of a too late, insufficient, incorrect or non-transmission of all legal information, including the abovementioned, by the Client. The Client undertakes to pay any additional invoices that may be charged for this purpose.

- 3.3.11 Employment of the temporary employee abroad is only possible with the prior written consent of AGO Construct NV. In any event, this employment always takes place under the strict management and supervision of the Belgian client and only in the case of short-term assignments. The Client declares that the person concerned remains under the continuous authority of the Belgian Client during the assignment abroad. Direct and/or indirect corrections, fines and/or damages as a result of non-compliance with this provision will be invoiced in full to the Client.

- 3.3.12 The Client may not invoke the services of the temporary employment agency in the event of temporary unemployment, strike or lock-out in its company/companies. Where applicable, the Client must notify the temporary employment agency of this immediately and in writing. The compulsory withdrawal of the temporary employees in these cases will not give rise to the payment of compensation by the temporary employment agency to the Client.

- 3.3.13 The Client undertakes to allow the Temporary Employee to enjoy the same benefits as those granted to his permanent staff such as canteen, transport, etc. In addition, the statutory salary and compensation scales (e.g. extra-legal benefits, premiums, etc.) shall be respected. If the hourly wage or fees stated by the Client are not in conformity, this can be adjusted by AGO Construct NV according to the scale and invoiced at the coefficient determined in the cooperation agreement. It is the responsibility of the Client to check through the invoices whether this has been correctly applied.

3.3.14 The Client may only use the Temporary Employees of AGO Construct NV for the execution of its own activities and may under no circumstances place them at the disposal of third parties. Performance with a third party is only permitted subject to compliance with the legal provisions. The Client is solely liable for any irregularity in this respect and shall indemnify AGO Construct NV against all possible claims as a result of wrongful posting or concealed temporary employment agency work, including any sanctions, which may be imposed on AGO Construct NV by government authorities. All costs and damages suffered by AGO Construct NV as a result of this are also at the expense of the Client.

3.3.15 During the term of the Temporary Employee's employment with the client, in accordance with Section 19 of the Act of 24 July 1987, the client is responsible for the application of the provisions of the Act on regulation and protection of employment that apply at the place of employment. For the application thereof, the provisions relating to the fight against discrimination, equal treatment of men and women, working hours, public holidays, Sunday rest, women's work, maternity protection, the protection of nursing mothers, the work of young persons, night work, the working regulations, the provisions relating to the monitoring of the performance of part-time employees, the health and safety of employees, as well as the salubrity of the work and of the workplaces are considered as provisions applicable at the place of work.

The Client undertakes to check, prior to each request addressed to AGO Construct NV, whether his/her request complies with the aforementioned provision. It follows from this that the Client must treat the Temporary Employees on an equal footing with its permanent staff, including with regard to working time, working time reduction, compensation, breaks, public holidays, Sunday work, night work, welfare of the Temporary Employee at work, etc.

3.3.16 The Client is co-responsible for the correct application of Directive (EU) 2019/1152 on transparent and predictable working conditions. If the Temporary Worker requests a form of work with more predictable and certain terms of employment, AGO Construct NV must, in accordance with Article 8 of collective labor agreement No. 161, respond to the request in writing and with motivation within a period of one month. Upon a simple written request from AGO Construct NV, the Client must, within a period of seven calendar days, inform AGO Construct NV in writing whether or not a form of work with more predictable and certain terms of employment is possible at the Client's premises. In case of refusal, delay, or counterproposal, the Client must provide the specific reasons for this within the same period. If the Client fails to communicate the specific reasons to AGO Construct NV within the stipulated period, AGO Construct NV reserves the right to recover the penalty under Article 174/2 of the Social Penal Code from the Client.

If the Temporary Worker alleges unfavorable treatment after requesting a form of work with more predictable and certain terms of employment, AGO Construct NV must prove that the unfavorable measure was taken for reasons unrelated to the exercise of rights arising from collective labor agreement No. 161. Since only the Client can indicate whether a form of work with more predictable and certain terms of employment is available, he must, upon a simple written request from AGO Construct NV, within a period of seven calendar days, provide written evidence that there is no unfavorable treatment, i.e., demonstrate that there are reasons unrelated to the exercise of rights arising from collective labor agreement No. 161 and provide the necessary supporting documents. If AGO Construct NV is ordered to pay damages, AGO Construct NV reserves the right to recover the damages from the Client.

3.3.17 In the event of payment of costs related to the employer, the Client must submit the necessary supporting documents to AGO Construct NV. The documents prove that the reimbursements are intended to cover the costs related to the employer and that these reimbursements were actually spent on such expenses. In the absence of

conclusive evidence, the Client remains responsible and, in the event of rectification, obliged to pay the additional invoices charged for this purpose.

3.3.18 The work interruptions for rest, meals, etc... as well as the non-worked hours normally paid by the Client to its staff (including bridging time and days) are considered as working hours and are invoiced as such.

3.3.19 Successive day contracts are permitted to the extent that there is a need for flexibility on the part of the client in accordance with the legislation and the implementing CLA's. As of January 1, 2023, the Client is obligated to pay a special social security contribution to the National Social Security Office (RSZ) if specific thresholds are exceeded per Temporary Worker per semester. The Client is responsible for the need for flexibility and bears the burden of proof in this respect and, where applicable, must respect the special information and consultation procedure laid down by law and/or the applicable CLA. AGO Construct NV has no power of appreciation in this respect.

In the event of an inspection, the Client will provide AGO Construct NV with the necessary documents demonstrating the need for flexibility. In the event of breach of these provisions in this respect, the Client is liable for all fees and costs that AGO Construct NV may be due as a result. The Client undertakes to proceed to the payment of the additional invoices that will be invoiced for this where appropriate.

3.3.20 At the written request of the Client, an employment contract can be concluded between AGO Construct NV and a Temporary Employee with a duration exceeding one calendar week. In this case the Client shall inform AGO Construct NV in writing at least one week in advance of the names of the Temporary Employees concerned and the respective duration of the contracts.

All fees due as a result of incapacity for work are invoiced to the Client by AGO Construct NV.

The invoicing of the guaranteed salary following an accident at work is reduced by the amount recovered via the AGO Construct NV occupational accident insurance.

The Client is obliged to notify AGO Construct NV immediately and at least 8 calendar days in advance if economic unemployment occurs in order to allow AGO Construct NV to deliver the necessary documents to the National Employment Office in time.

If the Client decides to terminate the employment of the Temporary Employee, despite the long-term temporary employment contract, AGO Construct NV will invoice the breach of contract fee paid to the Temporary Employee to the Client.

If the Temporary Employee decides to terminate the aforementioned contract prematurely, the Client shall not hold AGO Construct NV liable for this. Consequently, AGO Construct NV is not obliged to pay a fee to the Client.

Any fees received by the Temporary Employees will be passed on to the Client, subject to deduction of costs incurred by AGO Construct NV to obtain the breach of contract compensation.

3.3.21 At the request of the client, an employment contract can be drawn up between AGO Construct NV and a temporary employee under the statute of:

- Student
- Flexible job employee
- Casual employee under PC 144
- Casual employee under PC 145 (excluding PC 145.04 - parks and gardens)
- Casual employee under PC 302

The Client undertakes in advance to check the application and the conditions of application and not to make any applications that are not permitted under this statute.

The Client undertakes to respect at least the following

guidelines:

- In each case, the schedule specifies the start and end duration of the temporary employee's employment.
- The registration of employment and any changes relating to DIMONA must be made at least 4 hours before the start of the employment.
- The Client shall see to it that the Temporary Employee complies with his employment agreement, and shall ensure that he will always be employed during the hours provided for in this agreement.

AGO Construct NV cannot be held responsible in the event of refusal of the status in DIMONA or DMFA (Social Security), regardless of the reason for refusal.

In the event of refusal, AGO Construct NV reserves the right to modify the initial price agreements and to re-invoice to the coefficient for employment under the statute of blue-collar and white-collar employees. If no rates for a blue-collar employee are included in the cooperation agreement, a rate for a blue-collar employee of 2.24 and for a white-collar employee of 2.45 shall apply.

The rates indicated as applicable for the casual employees in PC 144 and PC 145 only apply to the invoicing of hours worked as an casual employee. Other equivalent hours are charged at the rates of an ordinary employee. These rates are based on full-time employment as an casual employee. As the cost price increases in case of incomplete performances (NSSO on a fixed amount), AGO Construct NV reserves the right to revise the coefficient in this case.

- 3.3.22 In case of an accident at work of a Temporary Employee, the Client, after having taken the urgent measures, will immediately inform AGO Construct NV and provide all necessary information for drawing up the accident statement; In case of delay or failure to communicate the circumstances of the accident, the Client will be held directly responsible for sanctions by inspection services or the failure of insurance institutions to intervene. If the accident at work/road work accident is refused by the occupational accident insurer of AGO Construct NV, AGO Construct NV does not intervene in the medical costs.
- 3.3.23 In the event of any serious accident, the Client shall instruct its internal or external Prevention and Protection at the Work Place department to investigate the accident - at its own expense - and to implement the obligations of the Welfare legislation and the Temporary Employment Agency Work Act. The accident report, signed by the Client and, if necessary, supplemented by AGO Construct NV, will be sent by the Client, within 10 days following the accident, to FPS - Welfare Supervision and a copy to AGO Construct NV. The report meets the minimum requirements imposed by the applicable legislation. The Client keeps AGO Construct NV informed of the further processing of the report by the FPS.
- 3.3.24 The civil liability provided for in Section 1384 paragraph 3 of the Belgian Civil Code rests with the Client. The Client is therefore only responsible for any damage caused by the Temporary Employee to third parties. It is recommended that the Client also include in its civil liability insurance a cover for the damage caused by the Temporary Employee as the Client's staff. AGO Construct NV is not liable for the payment of the fines imposed on the Temporary Employee in case of violation of the traffic regulations: it is the Client who, in addition to the Temporary Employee, is liable for the payment of fines.

Nor is AGO Construct NV liable for the damage caused by the Temporary Employee to the Client during and as a result of his employment with the Client. The liability of AGO Construct NV is also not involved in case of damage, loss, theft or disappearance of material, money or goods entrusted to the Temporary Employee.

With regard to the selection, the liability of AGO Construct NV can never be invoked if the Client itself carries out the selection of the candidate temporary employees.

- 3.3.25 The Client is solely liable for the return of the signed client contract and (the supervision of) the return of the completed and signed time sheets. Failing this, the client shall not be able to invoke the non-signature to the detriment of AGO Construct NV and AGO Construct NV shall invoice the actual performances performed by the Temporary Employee, with as a minimum the contractually agreed performances, to the client.

- 3.3.26 The signature of the Client on the periodic time sheets implies the acknowledgement of the accuracy of the information contained therein and of the satisfactory performance of the work by the Temporary Employee. The Client shall not dispute the validity of the signatures of its employees or mandataries on the time sheets. In the event of automatic payroll administration, the Client shall at all times agree to the performance data as transmitted by automated or electronic means. Only the Client is liable in the event of errors in the automated transmission.

- 3.3.27 AGO Construct NV is not responsible for loans or advances in kind or cash, possibly granted by the Client to the Temporary Employee. The recovery of expenses resulting from the use of the telephone for private purposes, meals used in the company restaurant, permitted purchases, etc... will be made without the mediation of AGO Construct NV. Under no circumstances can the responsibility of AGO Construct NV be invoked in case of loss, theft or disappearance of equipment, cash, bills of exchange or goods entrusted to the Temporary Employee by the Client or his employees.

#### **3.4 Rights and Obligations of the Client in the Context of Payroll Withholding Tax Exemption**

- 3.4.1 The Client who submits a request for the provision of temporary workers and/or to whom candidates for temporary employment are presented at their request, and who acknowledges that their company is classified as one where shift or night work is performed, as well as that the provided temporary workers will be employed in one or more systems eligible for an exemption from the remittance of payroll withholding tax, explicitly grants AGO Construct NV permission, as of this request, to apply the exemption from remittance of payroll withholding tax for the work performed by the temporary workers, provided all conditions of Article 275/5 WIB 92 are met.

The Client who authorizes AGO Construct NV to apply the exemption from remittance of payroll withholding tax under these conditions also expressly agrees to the following framework of agreements as defined in the Royal Decree of September 16, 2024, establishing the agreement with the Client stipulated in Article 275/5, §4, 6th paragraph WIB 92.

- 3.4.2 From the time temporary workers are employed in one or more systems eligible for an exemption from remittance of payroll withholding tax in accordance with the Client's request, AGO Construct NV will provide the Client with a monthly report detailing the identity of the temporary workers, their performance, and the nature of the withholding tax exemption. This report will be delivered in the month following the month in which the work was performed.

The Client will review and verify this monthly report and must notify AGO Construct NV in writing within eight calendar days in the event of changes and/or if, for any reason, the conditions for the exemption are not met. Acceptance of the monthly report by the Client implies that all data regarding the exemption are correct and that the Client is able to provide evidence that the specified exemption conditions have been met. If the Client accepts the monthly report without changes and/or without further notice, this acceptance serves as a tacit confirmation that all conditions have been met and that the Client can provide the necessary evidence.

- 3.4.3 When applying the exemption from remittance of payroll withholding tax, the Client must be able to provide evidence that all applicable conditions have been met. Accordingly, in the event of an audit, the
- Version 01/04/2025

Client must, upon request, be able to present at least the following non-exhaustive evidence:

- The work regulations with applicable work schedules;
- The company or sectoral collective agreements that specify shift and/or night work;
- The schedules and/or time registrations for the performance of permanent employees and temporary workers (demonstrating shift work);
- The placement of the workstation within the shift system and the activities performed;
- The size and composition of the different shifts;
- Payment of a shift or night work premium;
- In the case of construction works: checkin/work notifications.

The Client is liable to AGO Construct NV if the conditions for the exemption from remittance of payroll withholding tax are not met or if sufficient evidence is not provided.

- 3.4.4 In cases where the Client acknowledges that the temporary workers will be employed in a shift system eligible for the exemption from remittance of payroll withholding tax, the pricing assumes that the Client qualifies for the maximum exemption. In such cases, the portion of the exemption not separately credited is always included in the rates. Initial pricing is thus always determined based on the maximum exemption. If it is later determined that the Client does not qualify for the proposed maximum exemption or opts to apply the alternative version as provided for in Article 275/5 WIB 92 for a certain period, AGO Construct NV reserves the right to invoice the difference between the actual exemption received and the presumed maximum exemption. AGO Construct NV also reserves the right to adjust pricing accordingly.

If it is found that the Client cannot demonstrate compliance with the exemption conditions or provide sufficient evidence for a certain period, and the exemption must be revoked for these reasons, AGO Construct NV reserves the right to invoice the corresponding adjustment, including any costs and tax increases, in full.

### **3.5 Suitability of the Temporary Employee**

- 3.5.1 Although AGO Construct NV takes the greatest care in the selection of the Temporary Employees, shortcomings can occur. If the Client notices a shortfall in the qualifications of the Temporary Employee, he must notify these to AGO Construct NV within the first four performance hours.

- 3.5.2 AGO Construct NV cannot be held responsible for the consequences of the absence of the Temporary Employee at work.

### **3.6 Obligations to the Temporary Employee**

- 3.6.1 In accordance with Section 10 of the Act of 24 July 1987, temporary employees are entitled to the same gross pay, including indexations and conventional increases, bonuses, meal vouchers and other wage components as if they had been hired on a permanent basis by the Client. On the basis of Article 2.3.1 of these conditions, the Client must communicate these wage details to AGO Construct NV.
- 3.6.2 The Client must also allow the Temporary Employee to benefit from all advantages granted to the permanent staff, as well as that the same legal salary scales must be respected. The Client shall also grant the Temporary Employees the same work interruptions for rest, meals, etc., as it owes the Temporary Employees the non-worked hours paid to the permanent staff (e.g. bridging days).
- 3.6.3 Subject to the express prior written agreement of AGO Construct NV:

- a. The Temporary Employee may only perform normal work, to the exclusion of all work protected by special regulations, such as unhealthy, dangerous or underground work or work at height;
- b. The Client is prohibited from assigning the Temporary Employee tasks that differ from those for which he/she was made available.

### **3.7 Protection of personal data**

- 3.7.1 If personal data is communicated to the Client in the context of the Contract, this can only be done on the basis of the authorisations set out in the Act of 8 December 1992 on the protection of privacy with regard to the processing of personal data and, from 25 May 2018, Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC.

Both AGO Construct NV and the Client are regarded as separate controllers within the meaning of the aforementioned regulations.

The Client declares to comply with his obligations as controller.

- 3.7.2 The Client undertakes to delete the personal data of candidates proposed by AGO Construct NV within one month of the presentation by AGO Construct NV of the person concerned.

- 3.7.3 The Client is aware that the protection of personal data is of particular importance to AGO Construct NV and that breaches of his obligations as controller may cause significant damage to AGO Construct NV, in particular damage to its image and reputation. Without prejudice to the possibility for AGO Construct NV to claim higher compensation for the actual damage caused by the breach of the obligations set out in this Article, in the event of a breach, the Client will be liable to pay fixed compensation of € 12,500.00 and such a breach will always constitute a breach of contract justifying the immediate termination of the Contract.

### **3.8 Invoicing and payment**

- 3.8.1 Invoicing: Invoicing is based on:

- The performance

The performance as stated on the performance statements or as communicated (electronically) by the client with as a minimum the number of hours requested by the client.

In the absence of performance sheets completed and signed by the client, invoicing will take place on the basis of the performance actually performed by the temporary employee, with a minimum of the number of hours requested by the client; in this context, all free hours and days granted and remunerated by the client to its permanent employees, such as extra-legal holidays, holidays, bridging days, etc., to which the temporary employee is also entitled, will also be regarded as performance and invoiced as such to the client.

- The agreed coefficient and/or the agreed rate

This coefficient and/or this rate may be increased unilaterally by AGO Construct NV in the event of an increase in the direct or indirect employer's charges as well as all possible other factors that determine the actual wage cost and/or operating cost of AGO Construct NV. Wage increases as a result of wage indexations and conventional wage increases applicable at the client's premises shall be invoiced at the agreed rate.

- The rates for temporary employment agency work are based on a number of actual working hours or working days; the aforementioned number is stated in the cooperation agreement between AGO Construct NV and the client. In the case of part-time employment, the minimum number of working hours or working days

must be converted proportionally using the formula [actual working hours or working days] / Q \* S, where Q equals the weekly working time of the individual temporary employee and S equals the weekly working time of the full-time employee. It is possible to employ the temporary employee at an earlier date on a permanent basis, subject to payment of a lump-sum payment, as set out in the Article on recruitment and selection prices.

The rates, as well as what may or may not be included in these rates, to which the performance of the Temporary Employees is invoiced are set out in the Contract of Cooperation between the Client and AGO Construct NV. Anything not mentioned in the Contract is deemed to be exclusive and will be invoiced additionally to the Client. Unless agreed otherwise in writing, the following items shall be invoiced to the Client as follows:

- Gross pay (including pension contributions, any premiums or reimbursements at sector or company level): Invoicing at wage coefficient
- Guaranteed pay in the event of suspension of the employment contract (sickness, minor delays, public holidays, accidents at work, etc.): Invoicing to wage coefficient
- All costs (non-exhaustive: work clothing, medical examinations, training courses, etc.) incurred by AGO Construct NV in the context of the placement of the temporary employee at the client: cost price
- Reimbursement of transport costs: Coefficient of 1.409
- The employer's contribution of meal vouchers and/or eco vouchers to which the temporary employee is entitled as a result of his placement at the client: Coefficient of 1.69
- DIMONA cost: billing at 0.45 euros per invoiced hour (indexable).
- Taking statutory employee leave, testing, time registration, work clothes and work shoes, purchase of badges, 24-hour standby, administrative costs for work-related accidents of 250 EUR, medical costs health assessments (whatever their nature): Cost price
- The recruitment and selection prices for permanent employment are expressed as a percentage of the gross annual salary, referred to as a fee. This fee is due upon entering into an employment relationship between the Client and the selected candidate. The gross annual salary is defined as the annual salary, including all extras that the candidate nominated by AGO Construct NV will

earn upon commencement of employment. Extras also include: holiday allowance, 13th month payment, bonuses and commissions, the monetary value of a company car (fixed at 15% of the catalogue value), expense allowances and all other employee benefits. Also in case of a part-time position and/or employment contract shorter than one year, the annual salary will be based on a full working week and a full year. The gross annual salary must be increased by the VAT due on it. The selection amount can be reduced at the request of the Client if a temporary employment through AGO Construct NV has already taken place. Per hour or day of effective full-time employment, the amount is reduced by 1/[effective working hours or working days]. In the case of part-time employment, a proportional conversion will be made according to the formula set out in the previous paragraph.

- The other wage components as provided for in Article 2.3.1 of these conditions.
- The other price agreements in writing. All this increased with the applicable VAT.

For special services (such as overtime, work in shifts, at night, on Sundays and public holidays, etc.) the Temporary Employee shall be compensated in accordance with the law and/or CLA applicable at the Client. The wage supplement thus paid will be invoiced to the Client at the same coefficient as that applied to the Temporary Employee's basic wage or as that used to calculate the rate.

- 3.7.2 Before the start and at the latest on the first day of the temporary employee's employment, the Client shall provide AGO Construct NV with all necessary information to enable AGO Construct NV to draw up a correct invoice, including but not limited to the correct PO number. Failure to provide a correct PO number does not release the Client from his

obligation to pay the full invoiced amount within the contractually stipulated term of payment.

- 3.7.3 In accordance with Section 20 of the Royal Decree no. 1 relating to the arrangements for the payment of value added tax, the Client does not owe this tax to AGO Construct NV if a Temporary Employee carries out work in immovable property (or an equivalent transaction). AGO Construct NV shall only apply this arrangement co-contractor if the client dates, signs and transfers to AGO Construct NV a document drawn up for this purpose by AGO Construct NV. The client is responsible for the correct application of this Article. In this context, the client undertakes to provide AGO Construct NV with the correct information and to inform AGO Construct NV in good time of any changes. In the event of incorrect application of the system of co-contractor, all costs (including but not limited to: regularisations, fines, default interest, ...) are at the expense of the client.

- 3.7.4 The standard payment term concerns a cash payment by direct debit. It is possible that a special payment term has been agreed in the cooperation agreement between AGO Construct NV and the client, this is subject to permanent approval by the credit insurer.

If the special payment term is exceeded, the special payment conditions shall lapse and the standard payment condition shall be applied, this without prejudice to the provisions of Article 2.4.7 of the general conditions and subject to permanent approval by the credit insurer.

### **3.9 Termination**

- 3.9.1 The Client who unilaterally and prematurely terminates the agreement for temporary employment agency work (including 'week-contracts' and extensions) is liable, in application of Section 5.88 of the Belgian Civil Code, to pay a fixed compensation which corresponds to the price that AGO Construct NV would invoice for the agreed performances in case of execution of the agreement; this fixed compensation will amount to at least € 50.00 per calendar day.

This fixed compensation is also due in case the possible nullity of the agreement for temporary employment agency work is the result of a breach by the Client of the Temporary Employment Agency Work Act or a shortcoming in the above mentioned information obligations. AGO Construct NV reserves the right to claim a higher compensation; if necessary it will prove the damage actually suffered. The Client undertakes to pay the additional invoices charged for this purpose.

- 3.9.2 In case AGO Construct NV has to provide an employment guarantee pursuant to the law or an applicable CLA, the minimum duration of the agreement with the Temporary Employee is equal to the duration of the employment guarantee. In case of early termination at the request of the Client without urgent reason, the Client is liable for all fees and costs that AGO Construct NV would be due as a result.

The Client undertakes to pay the additional invoices that will be invoiced for this as the case may be.

### 3.10 Solicitation

- 3.10.1 In case of solicitation by the Client within a period of 12 months after the presentation of the candidate, if the Client thus directly or indirectly (e.g. via an affiliated company; via a third party (e.g. via a third party). through a third party (e.g. another temporary employment agency) or through an agreement for services (directly with the candidate or through a third party who has hired the candidate), without the intervention of AGO Construct NV, enters into an employment relationship with the Temporary Employee for the same or another position, before the Temporary Employee has performed 988 hours or 130 days through AGO Construct NV, the Client shall pay to AGO Construct NV, by way of fixed compensation, an operating cost equal to 35% of the gross annual salary of the Temporary Employee concerned.

This amount is based on the mutual agreement between the Client and AGO Construct NV that the damages suffered by AGO Construct NV include the costs of prospecting, selection and screening as well as the administrative follow-up and settlement and the loss of profit, and that these damages can be estimated on a flat-rate basis at the above-mentioned amount, subject however to the right of AGO Construct NV to claim a higher compensation if proof of the extent of the damages is provided

Unless expressly agreed otherwise, days worked as a student are not included in the period that the temporary employee has to work for the Client (988 hours or 130 days, unless otherwise stipulated in the cooperation agreement).

The compensation for solicitation, as stipulated above, is also payable by the Client if the Client hires a temporary employee who was employed by him via AGO Construct NV with an employment contract for students (both student and working student), either directly or indirectly within 12 months of the end date of the last employment contract between the student and AGO Construct NV.

The Client shall also owe this compensation if the Temporary Employee enters into an employment relationship within a period of 12 months after the last employment contract was terminated via AGO Construct NV, provided that the Temporary Employee has not yet been made available 988 hours or 130 days via AGO Construct NV and has performed between the first day of placement and the first day of the employment relationship with the Temporary Employee

- 3.10.2 In case of solicitation of a Temporary Employee employed by AGO Construct NV by another temporary employment agency (for employment with the same Client) within 30 days following the last day of employment through AGO Construct NV, the Client will owe AGO Construct NV a recruitment fee equal to € 3.000,00 per Temporary Employee.

If the Temporary Employee has not yet performed 988 hours or 130 days via AGO Construct NV, the recruitment compensation will furthermore be cumulated with the operational cost estimated at 35% of the gross annual salary of the Temporary Employee concerned, whereby AIB furthermore reserves the right to claim a higher compensation subject to proof of the extent of the damage.

#### **4. [Special Contract Conditions - Selection](#)**

##### **4.1 [General](#)**

- 4.1.1 These special selection conditions specifically pertain to the activities of AGO Construct NV regarding the recruitment and selection of (specific) profiles to subsequently engage them through an employment contract or on a self-employed basis by the Client.
- 4.1.2 In the recruitment and selection process, due consideration is given, where applicable, to the job requirements set by the Client, as well as to the preferences and expectations of the Candidates.
- 4.1.3 These special selection conditions supplement the general contractual terms and conditions of AGO Construct NV.

##### **4.2 [Definitions and General Provisions](#)**

- 4.2.1 Candidate: Any person presented to the Client by AGO Construct NV, regardless of the method of presentation.
- 4.2.2 Definition of 'Annual Salary': All gross compensations and benefits, including on-target bonuses, promised to the Candidate in anticipation of performance during the first year of employment (e.g., sign bonus, stock options), regardless of the modality of disbursement and whether targets are achieved. The benefit of a company car is accounted for at a flat rate of €12,000.

##### **4.3 [Obligations of the Client](#)**

- 4.3.1 The Client undertakes to provide AGO Construct NV with all relevant information necessary for the execution of the Services, including, but not limited to, the most comprehensive and detailed description possible of the job requirements a Candidate must meet.
- 4.3.2 The Client ensures the accuracy, precision, and completeness of this information, allowing AGO Construct NV to align the execution of the Services with the Client's objectives and needs.

##### **4.4 [Selection fee](#)**

- 4.4.1 The Client is obligated to pay the selection fee, as agreed between the Client and AGO Construct NV, as soon as the Client (directly or indirectly, for instance through affiliated companies, shareholders, or directors) has hired a Candidate during the term of the Agreement or within twelve months after the end of the Agreement. In the absence of an agreed selection fee, a flat-rate compensation to cover operating and recruitment costs is payable, amounting to 35% of the gross annual salary.
- 4.4.2 Candidate is considered hired as soon as a collaboration of any kind (e.g., a contract for services, a service agreement, an employment contract) is established within the timeframe specified in Article 4.4.1, regardless of the position or the form (written or merely verbal).
- 4.4.3 The selection fee is due regardless of whether AGO Construct NV was further involved in the recruitment process after presenting the Candidate to the Client, regardless of the potential involvement of third parties, and regardless of whether the Candidate or the Client took an active or passive role during the recruitment process.

##### **4.5 [Protection of personal data](#)**

- 4.5.1 When personal data is shared with the Client in the context of the Contract, this is permitted only based on the authorizations provided by the Act of December 8, 1992, on the protection of privacy in relation to the processing of personal data, and as of May 25, 2018, Regulation 2016/679 of the European Parliament and of the Council of April 27, 2016, on the protection of natural persons regarding the processing of personal data and on the free movement of such data, repealing Directive 95/46/EC.

Both AGO Construct NV and the Client are considered separate data controllers within the meaning of the aforementioned legislation.

The Client declares to comply with its obligations as a data controller.

- 4.5.2 The Client undertakes to delete the personal data of candidates presented by AGO Construct NV within one month after AGO Construct NV has introduced the individual in question.
- 4.5.3 The Client acknowledges that the protection of personal data is of particular importance to AGO Construct NV, and that breaches of its

obligations as a data controller can cause significant harm to AGO Construct NV, particularly in terms of image and reputation damage. Without prejudice to AGO Construct NV's right to claim higher compensation for the actual damage caused by the breach of obligations under this article, the Client shall owe a flat-rate compensation of €12,500.00 for such breaches. Furthermore, any such breach constitutes a default justifying the immediate termination of the Contract.