

## GENERAL TERMS AND CONDITIONS OF CANDID

### 1 Definitions

In these general terms and conditions (hereinafter also referred to as the “terms and conditions”), the following definitions apply:

CANDID: Candid Group B.V. and any company of which it directly or indirectly holds all shares in the issued capital and which declares these terms and conditions applicable.

Client: the party who gives an Assignment to CANDID or is discussing this with CANDID or for whom CANDID has actually started performing work;

Services: all work that CANDID offers and actually performs or has actually performed for the Client (or performs or has performed for the Client according to the Confirmation of the Assignment), such as media advice, media strategy, media planning, media procurement, media creation and Handling;

Handling: the administrative settlement and invoicing with the media operator, and all work performed by CANDID itself and related thereto, but excluding the actual performance of the Media Placement by the Media Operator;

Handling Fee: the fee owed by the Client for the Handling;

Materials: all software, equipment or other materials, including analyses, designs, documentation, reports and quotations, developed or provided by CANDID based on an Assignment;

Media: printed, audiovisual, auditory and digital media, all in the broadest sense of the word;

Media Operator: the business that operates Media in order to create Media Placements;

Media Sales: the total amount charged by a Media Operator in connection with a Media Placement;

Media Placement: an advertisement or campaign published or to be published in Media for the Client;

Assignment: the agreement under which CANDID has undertaken to the Client to provide Services and under which the Client has undertaken to CANDID to purchase these Services;

Confirmation of the Assignment: the written or electronic confirmation of the Assignment by CANDID.

Power of Attorney: the document in which CANDID has set out the Media Placements to be carried out by the Media Operator;

Reservation: the amount reserved by CANDID on the basis of the risk profile established by CANDID for the relevant Client, in the unlikely event that any payment and other (pre-financing) risks manifest themselves in connection with any obligations that CANDID assumes towards third parties in its own name, but for the Client's account.

Standard Rates of the Media Operator: the standard rates for Media Placements charged by a Media Operator from time to time, as shown by the rate cards used by the Media Operator from time to time.

### 2 Applicability

- 2.1 These terms and conditions apply to all requests for a quotation from CANDID, all offers from CANDID and all Assignments given to CANDID and, moreover, to any and all future Assignments arising therefrom or given after that, as well as to all other legal relationships concerning CANDID.
- 2.2 These terms and conditions apply exclusively. These terms and conditions may only be rejected explicitly in writing, which rejection CANDID will refuse beforehand. Any offer to apply general terms and conditions used by the Client will be refused by CANDID beforehand, even if CANDID does not refuse them separately or explicitly.

### 3 Offers, formation and contents of the Assignment

- 3.1 An offer or quotation will not be binding on CANDID and only serves as an invitation to the Client to give an Assignment.
- 3.2 An Assignment is formed by CANDID either accepting it in writing or by e-mail, or by the Client accepting a Confirmation of the Assignment, or by CANDID actually carrying out an Assignment



without the Client having protested against this immediately.

- 3.3 CANDID has the right to establish a risk profile of the Client in order to make an estimate of the financial risks that CANDID runs by carrying out the Assignment. The risk profile will be revised periodically. CANDID is authorised to request information from the Client and from third parties to that end. The Client is required to provide this information to CANDID upon the latter's request. If the Client is not prepared to provide CANDID with the information it needs in order to establish the risk profile, CANDID will be entitled to – at its discretion – refuse the Assignment or, at any rate, terminate it without being obliged to compensate the Client for any loss whatsoever, or to set additional conditions (such as advance funding and/or provision of security) on the Client.
- 3.4 An Assignment will always be given for an indefinite period, unless explicitly agreed otherwise in writing. Any Assignment that is given for a definite period and is automatically renewed after expiry will be continued for an indefinite period. Any actual invoicing in instalments or actual performance of assignments in parts do not detract from these principles. The Media Placements and/or periods included in Powers of Attorney are never considered to be an Assignment for a definite period, but only reflect the actual performance of part of the Assignment.
- 3.5 In the Confirmation of the Assignment, CANDID and the Client will set out the Services of CANDID that fall under the Assignment. The Confirmation of the Assignment is always deemed to be complete and clear. Any services other than the Services mentioned therein or any further obligations other than those arising from the Confirmation of the Assignment are never covered by the Assignment by practical actions or by silence.
- 3.6 Any derogation from, supplement to or extension of the Assignment must be explicitly agreed upon in advance and in writing; otherwise it will be non-binding. This may also be done by e-mail, provided that an authorised signatory of CANDID has agreed to this in advance. The Client is responsible for ensuring this and for checking the Power of Attorney before the Client signs it as correct. If a Media Placement made under the Assignment is cancelled in whole or in part, it may only be cancelled if and insofar as this is allowed by the Media Operator, under the conditions set by the Media Operator in this respect. CANDID may always charge the Client any costs related to changes and any additional costs, and the Client undertakes to pay those additional and other costs to CANDID at the latter's first request.
- 3.7 The Client guarantees that the persons actually communicating with CANDID on its behalf have a mandate to make binding agreements with CANDID. The Client guarantees that communications to CANDID are always timely, complete and correct. The Client also guarantees that all materials, including, but not limited to, advertising materials and broadcasting instructions, required for the performance of the Services by Candid are always delivered in a timely, complete and correct manner, and that the Client is the rightful owner of those materials and that they do not infringe any third-party rights.

- 3.8 The Client also guarantees that it will not be in direct contact with Media Operators or third parties about the Services forming part of the Assignment. If, however, the Client contacts and, for example, makes agreements with Media Operators directly, this will not affect the fact that the Client cannot pass on these agreements or the financial consequences thereof to CANDID in an adverse manner and that the Client will always have an exclusive obligation towards CANDID to meet the obligations arising from the Assignment. The Client guarantees that it will compensate CANDID, at the latter's first request, for any and all financial consequences of acting contrary to this provision (e.g. increased costs of the Media Placement purchased or fees and commissions CANDID has missed out on).
- 3.9 CANDID will only have a best-efforts obligation and will carry out the Assignment with due care. Any guaranteed results of the Services for the Client will have to be explicitly agreed upon in writing as such and will be stated in the Confirmation of the Assignment, or else they will not apply. So they cannot be assumed by the Client as a standard under the Assignment.
- 3.10 Specifications such as 'number of GRP's', 'number of spots', 'number of seconds of broadcasting time' etcetera and specifications of quality or quantity are always target values that are not guaranteed as a standard, unless explicitly agreed otherwise in writing and unless a separate rate and budget have been agreed upon with the Client to that end in order to effectuate the guaranteed value.
- 3.11 Communications in texts of e-mails, during presentations or by telephone and suchlike are never part of the Assignment and will only be binding on CANDID after they have been laid down in a Confirmation of the Assignment that has been signed as correct by CANDID and the Client.
- 3.12 CANDID will always be entitled to cancel the Assignment, without stating any reason, up to one week of receipt of the contents of or the materials for the Media Placement to be created by CANDID, in which case CANDID will only refund any advance payment made by the Client after having deducted reasonable expenses for the efforts made by CANDID.
- 3.13 Each Assignment is always deemed to have been given to CANDID alone, and not to any other person, servant or agent working for it, unless CANDID so decides within its group of companies. CANDID may engage third parties during the performance of the Assignment at its own discretion. CANDID is always entitled to negotiate, conclude contracts and, if necessary, effect settlements with Media Operators on the Client's behalf within the context of the provision of Services under the Assignment. CANDID will always have full power to do so as it sees fit and based on its own experience, unless explicitly agreed otherwise in writing.
- 3.14 CANDID will perform an Assignment based on the circumstances applicable at the time the Assignment was given and, insofar as it depends on the performance of third parties, based on the data provided by those third parties to CANDID.
- 3.15 CANDID is never responsible for communications or services provided by its suppliers, such as Media Operators or other third parties. Such communications and services provided by third parties are not part of the Services for which CANDID can be held responsible under the Assignment and are considered by CANDID to be force majeure in its relationship with the Client.
- 3.16 The Assignment is not a brokerage agreement. Moreover, the scope of Articles 402(2), 403-405, 407(2), 408(1) and (2), 409-411, 415-424 of Book 7 of the Dutch Civil Code is excluded.

## 4 Prices

- 4.1 All prices charged by CANDID – which are also understood to be rates – are in euros and exclusive of turnover tax. Unless explicitly agreed otherwise, the Client will be charged all levies or taxes or additional costs (costs of shipping and transport, postal charges) with respect to the Services. A minimum surcharge of 25% of the normal hourly rate applies to urgent assignments.
- 4.2 If CANDID charges the Client a Reservation, the Client will be required to pay that Reservation to CANDID. CANDID is entitled to set off against the Reservation any costs it faces or loss it suffers if any risk associated with the Reservation manifests itself. In no case will CANDID be required to refund and/or credit the Reservation (or any part thereof) and/or any part of the prices that CANDID charges the Client and/or the fee to which CANDID is entitled, not even (and particularly not) if none of the risks manifest themselves.
- 4.3 If the Client is not prepared to: (i) provide, or arrange for someone to provide, CANDID with the information needed to draw up the risk profile for the Reserve, or (ii) pay the Reserve, the Client must pay all budgeted external costs relating to the Contract, plus at least 15% for non-budgeted costs, to CANDID as an advance on demand. CANDID may then deduct all external costs, additional costs for changes the Client may require, and the costs of the resultant contract extras it will perform, from the advance. This does not affect the Client's obligation to reimburse CANDID in full if these costs exceed the advance. CANDID must repay the unused part of the advance to the Client or allocate it to reserves at the end of the Contract. The advance is not interest-bearing.
- 4.4 CANDID may directly pass on to the Client any change in the factors affecting CANDID's prices, including prices charged by third parties (such as Media Operators or suppliers), fees (such as commissions) by those third parties to CANDID, exchange rates, insurance rates, circumstances resulting in a change to the Client's risk profile as established by CANDID and other levies or taxes. CANDID is also entitled to implement, on 1 January, an annual correction (such as inflation adjustment or rate changes) of the rates charged. CANDID may also do this during the year with retroactive effect from 1 January of that year, if the Assignment was already given in the preceding year.
- 4.5 In case of any Media Placements outside the Netherlands, CANDID will charge a minimum surcharge of €30.00 excluding VAT for each Media Placement.
- 4.6 If a Media Operator charges a price with respect to a Media Placement which is higher than estimated by CANDID or the Media Operator in advance, or imposes a penalty or retrospective levies with respect to that Media Placement, such price increase, penalty or retrospective levies, whether or not imposed as a result of a failure to spend minimum Media Sales, will be borne by the Client.
- 4.7 If no agreement has been reached on the rates applicable to certain Media Placements and CANDID carries out Media Placements for the Client at a provisional rate, CANDID will not be liable to the Client for any differences between the provisional rate and the final rate applicable to those Media Placements. The Client will be required to pay CANDID the final rate applicable to the Media Placements.
- 4.8 If the Client requires more voucher copies than those provided by the Media Operator free of charge, CANDID will request these additional voucher copies from the Media Operator and will submit them – if the Media Operator provides or can provide them – to the Client against payment by the Client of the related costs.

Any additional work will be charged on at the usual rate, of which the rate most recently charged is indicative.

## **5 Fee**

- 5.1 The Client owes a fee for the provision of Services in accordance with the rates as determined by CANDID from time to time. The rates are exclusive of VAT. CANDID is always entitled to change these rates.
- 5.2 The Assignment will state which Services will be provided by CANDID and at what rates. This may also be shown by CANDID's rate card.
- 5.3 CANDID is entitled to a fee. This fee consists of:
  - a) a remuneration based on the hours worked and the applicable hourly rate; or
  - b) a Handling fee; or
  - c) the financial gain, by whatever name (such as 'Handling fee', 'kickback fee', 'AVB', 'agency commission', etcetera), which has been or will be paid to CANDID by Media Operators and/or other third parties;
  - d) the Reservation as referred to in Article 4.2 of these terms and conditions, if and insofar as no costs of CANDID are associated with this; or
  - e) a combination of the items referred to above under a), b), c) and d).
- 5.4 CANDID is always and exclusively entitled to receive and keep all commissions for itself. Here, it is not important whether the commissions can be attributed or are related to the money the Client has spent with Media Operators and/or other third parties via CANDID. The only exception to this is when it explicitly follows from the Assignment that a certain percentage of the commission that CANDID receives directly for the Media Sales from the Client accrues to the Client; this commission refund is given to the Client by way of a discount on the invoices relating to the Media Sales, if explicitly agreed upon.
- 5.5 However, all commissions, discounts, rate reductions and other financial benefits that CANDID derives from, for example, its reputation, customer value and other value for Media Operators, the volume of all media placements by CANDID during any period, etcetera, always exclusively accrue to CANDID.

## **6 Payment**

- 6.1 Unless stipulated otherwise, a payment term of 30 days applies to the Client. Invoices may be sent from the date of confirmation of an Assignment or from the date of commencement of the performance of an Assignment or on the placement date. The payment term of the invoice charging the Client an advance within the meaning of Article 4.3 of these terms and conditions will be the payment term stated in that invoice.
- 6.2 All payments will be made to CANDID without any discount, deduction, suspension or set-off.
- 6.3 If, at any time, CANDID has serious doubts about the Client's creditworthiness, or CANDID believes that it has to incur considerable expenses in order to carry out the Assignment, CANDID will always be entitled, before delivering any (further) performance, to demand that the Client pay the amount due in advance or provide proper security.
- 6.4 The Client will be in default immediately by the mere expiry of a payment term, without any notice of default being required. In that case, all claims CANDID has against the Client for whatever reason will be immediately due and payable.

- 6.5 Without any further notice of default being required, the Client owes statutory commercial interest plus 5%, with a minimum of 15% in total, on all amounts that remain unpaid by the last day of the payment term, from that day onwards. Any demands for payment or overviews of outstanding invoices expressed in principals which have been sent to the Client in the meantime will never imply any forfeiture of rights regarding default interest and/or expenses – not even if principal sums of invoices have been paid and are no longer listed as such in said demands for payment or overviews.
- 6.6 If the Client also fails to pay the amount due and interest after expiry of a further payment term set by registered letter, the Client will have to compensate CANDID for all judicial and extrajudicial costs it has incurred. CANDID may always estimate the extrajudicial costs at 15% of the invoice amount, with a minimum of €750.00 excluding VAT, without prejudice to CANDID's right to claim the actual costs if these are higher.
- 6.7 Irrespective of a statement to the contrary, the Client is deemed to have paid its debts in the following order: interest, judicial and extrajudicial collection costs, principal sums due (the oldest before the newest).

## **7 Force Majeure**

- 7.1 If force majeure (including the failure by suppliers to provide their services as stipulated in Article 3.15 of these terms and conditions) prevents CANDID from meeting its obligations towards the Client, those obligations will be suspended for the duration of the situation of force majeure.
- 7.2 If the situation of force majeure has lasted 1 month, both parties will be entitled to terminate the Assignment in whole or in part by registered letter. In a situation of force majeure, the Client will not be entitled to any compensation, not even if CANDID derives any benefit from the situation of force majeure. The legal basis for any performance already delivered by CANDID will continue to exist in spite of the termination, and the corresponding payment obligation of the Client will not cease to apply as a result of the termination.
- 7.3 Force majeure on the part of CANDID is understood to be any circumstance beyond the control of CANDID, as a result of which full or partial performance of its obligations to the Client is prevented or as a result of which performance of its obligations cannot reasonably be required from CANDID, irrespective of whether this circumstance was foreseeable at the time the Assignment was given. Those circumstances also include the refusal of or failure by a Media Operator to perform the Media Placement properly, in time or otherwise, other shortcomings on the part of the Media Operator, digital problems such as power failures, virus infections and Internet disruptions, and any circumstance beyond the control of CANDID and the Client as a result of which the Services under the agreement or the Media Placement cannot be performed (or cannot be performed in time and/or in full).
- 7.4 The parties will inform each other of a (possible) situation of force majeure as soon as possible.

## **8 Liability**

- 8.1 CANDID's liability for the performance of an Assignment is limited to the invoice amount charged to the Client with respect to the part of that Assignment which constitutes an attributable failure on the part of CANDID as regards the individual Media Placement.

- 8.2 CANDID's liability for events covered by its business liability insurance is limited to the amount paid out under that insurance policy in the relevant case. If so desired, CANDID will provide the Client with further information about the policy conditions.
- 8.3 In other respects, CANDID's liability towards the Client will be excluded, except in case of intent or gross recklessness on the part of CANDID.
- 8.4 The Client indemnifies CANDID against any third-party claims, by whatever name, related to an Assignment (or the performance of an Assignment).
- 8.5 CANDID is never liable for any consequential damage or loss or lost profit, nor for the damage or loss suffered by the Client or third parties as a result of the misleading, insulting, indecent or otherwise incorrect and/or unlawful nature of the form and content of the Media Placement created by CANDID on the Client's instructions. Any costs for rectifying a Media Placement will be fully borne by the Client.
- 8.6 The Client will be liable towards CANDID for any costs incurred and yet to be incurred when an Assignment or Media Placement is changed and/or cancelled.

## **9 Termination of Assignments**

- 9.1 Assignments are always deemed to have been given for an indefinite period and may only be terminated by the Client or CANDID in writing subject to 6 months' notice.
- 9.2 If the Client does not comply with any of its obligations arising from the Assignment properly or in time, the Client will be in default immediately and CANDID may, without any notice of default or judicial intervention being required:
- suspend the performance of the Assignment until sufficient security has been provided with respect to said obligation, such as payment; and/or
  - terminate all or part of the Assignment given by the Client;
- always at CANDID's sole discretion and without prejudice to CANDID's other rights, such as claiming compensation and/or penalties, and without CANDID being required to pay any compensation.
- 9.3 If CANDID exercises its power to terminate the Assignment as referred to in Article 9.2, CANDID will be authorised to set off any amount to be refunded to the Client against compensation for work already performed and compensation for loss of profits.
- 9.4 If the Client goes bankrupt, is granted a provisional or final moratorium, is closed down, is liquidated, if one or more assets of the Client are attached or if the Client knows that one of these situations will arise, the Client must inform CANDID of this as soon as possible.
- 9.5 If a situation arises as referred to in Article 9.4 – which will always be considered a failure attributable to the Client – all current Assignments given by the Client will be terminated by operation of law from the date on which that situation arises, unless CANDID informs the Client within a reasonable period of time that it still wants the relevant Assignment (or part thereof) to be performed. In the last-mentioned case, CANDID will be entitled, without a notice of default being required, to
- suspend the performance of the relevant Assignment until payment has been adequately secured; and/or
  - suspend any and all of its payment obligations towards the Client;
- always at CANDID's sole discretion and without prejudice to CANDID's other rights and without CANDID being required to pay any compensation or refund the amounts received from the Client.

9.6 In a situation as referred to in Article 9.4, all claims CANDID has against the Client will be immediately due and payable in full from the date on which the situation referred to therein arose.

## **10 Intellectual property rights**

10.1 All intellectual or industrial property rights to Materials are vested exclusively in CANDID and/or, if applicable, in its suppliers, irrespective of the data carriers on which they are recorded. The Client will only acquire the rights of use and powers that are granted under these terms and conditions or are otherwise expressly granted. Without CANDID's prior permission in writing, the Client will not change, reproduce or copy the Materials, or retain any copies made.

10.2 The Client is aware that the Materials may contain confidential information and company secrets of CANDID and/or its suppliers. The Client undertakes to keep such confidential information and company secrets confidential, not to disclose them or make them available to third parties and to use the Materials only for the purpose for which they were provided to the Client within the context of the Assignment. Third parties within the meaning of this paragraph are also considered to be all persons who work in the Client's organisation and do not necessarily have to use the Materials.

## **11 Other rights and obligations**

11.1 CANDID is allowed to transfer its rights and obligations towards the Client based on an Assignment to a third party of its choice.

11.2 Without CANDID's prior permission in writing, the Client is not authorised to set off any claim it has against CANDID (on whatever basis) or to pledge or transfer such claim to a third party or to encumber that claim in favour of a third party, or to rely on such claim in order to fully or partly suspend its payment obligations towards CANDID. This provision has effect under the law of obligations as well as under the law of property.

11.3 If CANDID goes into liquidation or becomes insolvent, all amounts it has quoted to the Client on the basis of the Assignment will become immediately due and payable. These amounts are then considered to be compensation for the purchase efforts and/or media reservations made or to be made by CANDID and/or the pre-financing by third parties as obtained by or on behalf of CANDID for this purpose or in connection therewith. This will fully apply if the Media Operator did not (or not fully) broadcast the Media Placement and/or did not (or not fully) place it in the relevant Media. In no case will CANDID owe the Client any compensation in that respect.

## **12 Lapse**

12.1 All rights of action, claims and other powers the Client has against CANDID, either based on a failure in the performance of an Assignment by CANDID, or based on an unlawful act performed by CANDID, or on any other ground, will lapse upon expiry of a period of one year after the day on which the Client became aware or could reasonably have become aware of the existence of those rights, claims and powers.

12.2 The expiry period referred to in Article 12.1 also applies, from the moment any agreement is formed that is governed by these Terms and Conditions, to all rights of action, claims and other powers which the Client has against CANDID and of which the Client is aware or could reasonable have been aware at that time.

## **13 Exclusivity**

During the term of the Assignment, the Client will, without CANDID's prior permission in writing, not be entitled to have parties other than CANDID perform any services that are identical or

similar to the Services to be performed by CANDID for the Client within the context of the Assignment, or to perform such services itself. In case of a violation, the Client will forfeit to CANDID an immediately payable penalty, not subject to set-off, of €20,000.00 for each violation and also of €2,500.00 excluding VAT for each day or part of a day that violation continues, without prejudice to CANDID's right to also claim full compensation in this respect.

#### **14 Governing law, competent court**

- 14.1 These terms and conditions, as well as all Assignments and disputes relating thereto and/or arising therefrom, are governed exclusively by Dutch law.
- 14.2 Any and all disputes are submitted to the competent court of Amsterdam, unless mandatory law provides otherwise.

#### **15 Entire agreement clause and replacement**

- 15.1 The Assignment, together with these terms and conditions, is deemed to correctly set out the entire contents of the agreements made between the parties and replaces any and all previous agreements made between the parties, unless CANDID and the Client have explicitly agreed otherwise in writing.
- 15.2 If and insofar as any provision of these general terms and conditions cannot be invoked pursuant to the Law, the relevant provision will, as regards its content and purport, in any case be ascribed such a similar meaning that the relevant provision can rightly be invoked, the remaining terms and conditions being maintained as far as possible.

#### **16 Amendment to these terms and conditions**

These terms and conditions may be amended from time to time by a mere notification from CANDID to the Client. CANDID will publish the amended terms and conditions on the websites of its companies. If the Client fails to lodge a written objection within two weeks after having received a notification from CANDID, the amended general terms and conditions will apply immediately from the date of the notification and will apply to all then current Assignments.

## **II SPECIFIC PROVISIONS RELATING TO SOFTWARE DEVELOPMENT**

The provisions set forth in this Chapter apply, in addition to the general provisions (Chapter I), if and to the extent that CANDID develops software for the Client (computer programmes with accompanying documentation and materials developed by CANDID on the Client's instructions and for which CANDID grants or has granted a right of use, hereinafter "Software") or licenses standard software to the Client. In the event that the specific provisions differ from the general provisions, the specific provisions will prevail.

### **1 Nature of the development work and right of use**

- 1.1 Unless a functional description and a deadline have been specifically agreed between CANDID and the Client, CANDID will carry out the development work on the basis of the available budget and the objectives agreed for each development phase ("Sprint").

If an acceptance test has been agreed, the test period will last for 14 days after delivery of the Software. If it has been agreed that CANDID will take care of the Software installation, the test period will commence after CANDID has completed the installation and has notified the Client of such completion. If it appears during the agreed acceptance test that the Software does not meet the specifications agreed between the parties, Client will notify CANDID thereof no later than on the last day of the test period by means of a written and detailed test report. CANDID will endeavour to repair any defects that have become apparent during the test period (including exclusively, differences from the agreed specifications) as soon as possible. If no acceptance test has been agreed, the Software will be considered accepted upon delivery by CANDID.



- 1.2 After completion of the development work of the Software and making it available to the Client, CANDID will grant the Client a sole right of use to the Software. The right of use is non-transferable. Unless otherwise agreed in writing, the right of use will become effective at the time that the Client has fully met its payment obligations relating to the development work towards CANDID. The Client may only use the Software within its own company in its normal course of business and to support its business, for a specific number or type of users or connections which the right of use was granted for.
- 1.3 The Client may not disclose or copy the Software or parts thereof, nor may it multiply or change it in any other way, except to the extent necessary for the use of the Software and agreed in writing between the parties.
- 1.4 Except to the extent permitted by law, the Client does not have the right to decompile the Software, to multiply the code or to subject the code to reverse engineering in any other way or to alter (the code of) the Software. If and to the extent that CANDID has taken technical measures to protect the Software, the Client will not be permitted to evade or delete those measures.
- 1.5 On termination of the right of use, the Client will immediately cease and not resume the use of the Software, remove the Software from its systems for as much as required and return any copies of the Software to CANDID or destroy it on CANDID's request with submission of proof of this destruction to CANDID.
- 1.6 CANDID does not guarantee that the Software will work without interruption, that it will be free from errors, that all errors will be remedied, and that the Software will be suitable for the Client's purposes relating to the Software and its application. A guarantee to that effect will only be valid if this has been explicitly agreed in writing.

## II SPECIFIC PROVISIONS RELATING TO HOSTING

The provisions set forth in this Chapter apply, in addition to the general provisions (Chapter I), if and to the extent that CANDID provides hosting services to the Client. In the event that the specific provisions differ from the general provisions, the specific provisions will prevail.

### 2. Hosting services

- 2.1 Hosting services are understood to be provided if CANDID stores data (including personal data) on behalf of the Client and this data is made accessible to the Client via internet. CANDID will endeavour to provide access to its hosting services with as few disruptions as possible. CANDID will frequently inspect its equipment and systems and maintain it or have it maintained, to ensure that the hosting services will be provided without interruptions as much as possible. CANDID does not guarantee availability, performance or accessibility of its systems without interruption.
- 2.2 If and to the extent that CANDID deems so necessary, CANDID will be free to suspend access to its hosting services, to render its systems inaccessible, and/or to take them out of use if required to carry out maintenance work, to implement improvements or to guarantee the safety of the hosting services as much as possible.
- 2.3 CANDID is not obliged to make backups of all of the data stored on CANDID systems by the Client. Client is obliged to make backups at the frequency deemed adequate by the Client. CANDID's liability for damage as a result of data loss is excluded.

## II SPECIFIC PROVISIONS RELATING TO SECONDMENT

The provisions set forth in this Chapter apply, in addition to the general provisions (Chapter I), if and to the extent that people are in gainful employment with CANDID and carry out work on behalf of, with and under the Client's control and supervision.

### **3. Client's duty of disclosure**

- 3.1 The Client is obliged to fully inform CANDID of all relevant employment conditions used by the Client in respect of positions that are comparable to the position for which the CANDID employee has been seconded to the Client in order to ensure that the CANDID employee will at least be equally remunerated for his/her work with the Client.
- 3.2 If and to the extent that the Client does not meet its duty of disclosure, the Client will indemnify CANDID on demand against any actions and/or claims of CANDID employees and/or the Tax Office and/or the UWV (Employee Insurance Agency), including any costs (for legal assistance among others) that CANDID will in such case need to incur.
- 3.3 The Client is obliged, prior to the CANDID employee commencing his/her work with the Client, to bring forward the proof of the professional or accident liability insurance policy effected and to maintain this insurance policy during the CANDID employee's employment and to punctually pay the premiums due each time.
- 3.4 CANDID will incur costs relating to the provision of services and deployment of its personnel. These costs may include recruitment costs, training costs and similar or related costs, and the profit mark-up needed for a healthy business. For that reason, the Client owes a fee to CANDID if the Client enters into employment with (a) Candid employee(s) in the interim period or within 6 months after the CANDID employee(s) has or have been made available to Client, or has the CANDID employee(s) carry out work and/or activities for the Client or companies that the Client cooperates with within a group (= Event), directly or indirectly, and whether or not for payment. This is in the broadest sense of the word.
- 3.5 The fee payable on the basis of the previous paragraph (Article 0) of this Article is € 5.000,00 per Event (applicable per employee) and € 100 for each day that the Event continues without prejudice to CANDID's right to claim full compensation if this should be higher in a specific case.
- 3.6 Without prejudice to the provisions of Article 0 and Article 0 , the Client owes to CANDID a fee (hereinafter referred to as: Fee) if a (trainee) employee has been introduced by CANDID to the Client as a prospect employee in any way, and the Client has entered into direct employment with the (prospect) employee in question, within a period of up to six months after that or has the (prospect) employee perform work (via third parties), without the Client and CANDID having come to an agreement about the hourly rate and without CANDID having made the (prospect) employee available to the Client. The Fee immediately due and payable, in such case, by the Client to CANDID, without a warning or notice of default being required, will be € 30,000 exclusive of VAT.