



## **General Terms and Conditions of Arcagna B.V.**

### **Article 1      Applicability**

These General Terms and Conditions shall apply to every agreement for professional services or legal relationship between Arcagna B.V. (further referred to as “Arcagna”) and another party (further referred to as the “client”), based on which Arcagna must carry out or has carried out work.

### **Article 2      Standard of care**

When carrying out the work in connection with an order given, Arcagna shall, insofar as reasonably possible, exercise due care. All agreements shall relate to obligations to perform to the best of one’s ability and never to obligations to guarantee certain results. All orders shall be deemed to have been accepted exclusively by Arcagna, even if such orders have been accepted by an employee or representative of Arcagna. The client may not sue any natural or legal person other than Arcagna for performance of the agreement or hold any natural or legal person other than Arcagna liable for compensation, even if an order was given by the client with the aim that such order would be carried out by that specific person.

### **Article 3      Involvement third parties**

Arcagna shall be entitled to involve third parties when carrying out orders, if and insofar as it considers this necessary. Arcagna accepts no liability for any failures on the part of those third parties, nor for damage or loss connected thereto. If, in the absence of this provision, in the event of a failure on the part of that third party, Arcagna should have a claim against that third party, this provision shall be regarded as not written and the liability of Arcagna vis-à-vis its client shall be limited to assigning the debt that it is owed, or asserts that it is owed, by that third party, without Arcagna guaranteeing that this debt may be collected successfully by its client.

### **Article 4      Electronic communication**

When communication takes place between the client and Arcagna through the use of electronic techniques, including e-mail and internet, both parties must ensure the security of such communication by using standard, current virus protection. When this condition is satisfied, neither party shall be liable vis-à-vis the other party for damage or loss in connection with viruses passed on, including damage or loss in connection with damage arising from those viruses to data files to be transmitted, damage to other files or data on the other party’s computer systems or the costs of remedying or repairing such damage. Messages shall be sent unencrypted unless the parties have expressly agreed otherwise before messages are sent. When the client is of the opinion that it has sent important messages to Arcagna, it must verify that those messages have reached the addressee at Arcagna in time and intact.

### **Article 5      Confidential data**

Arcagna shall treat as confidential, information from the client which should reasonably be presumed to be confidential. When third parties are employed by Arcagna during the performance of the agreement, in accordance with the provisions of Article 3, Arcagna shall be permitted to communicate that information to those third parties, unless the client has stated beforehand that its prior permission is required.

In accordance with specific legal obligations, Arcagna may be obliged to supply information about the client or its transactions to third parties, without Arcagna being permitted to report this to the client. The client is aware of such legal obligations and accepts that Arcagna shall fulfil those obligations. The client shall not oppose, prevent or hinder fulfilment of those legal obligations by Arcagna.

#### **Article 6            Rates and invoicing**

Invoicing for the work carried out shall take place monthly in accordance with the hourly rate applicable at Arcagna for the persons concerned at the time that the work is carried out. This hourly rate may be adjusted by Arcagna at regular intervals, including for current orders, when an office-wide increase of those rates has been decided upon. When work must be carried out under considerable time pressure, Arcagna shall be permitted to charge higher rates than its prevailing rates. Arcagna shall charge costs which have not been included in its rates, such as but not limited to, courier charges, translation charges and court fees, to the client separately. The client must pay within 14 days of the invoice date. When it has been agreed that the client must pay an advance before the work is started, this advance shall be settled with the last invoice relating to the order given. All invoices shall be increased by the applicable turnover tax percentage. If, for any reason, Arcagna has mistakenly not charged any turnover tax, and it subsequently turns out that turnover tax should have been charged, Arcagna may still charge the amount not charged as turnover tax to the client, and the client must still pay that amount to Arcagna.

#### **Article 7            Limitation of liability and indemnification**

Any liability on the part of Arcagna for damage or loss arising from, or connected to, an imputable failure or wrongful act, or which is based on any other legal ground, shall be limited to the amount paid out in that matter by Arcagna's insurer, plus Arcagna's excess under that insurance policy. If, in any case, the insurer does not pay out, then the total liability arising from, or connected to, the agreed work shall be limited to the amount that was paid by the client to Arcagna for the work in connection to which the damage or loss arose. Arcagna shall not rely upon this limitation of liability if damage or loss is a result of intent or wilful recklessness on the part of Arcagna or its management staff. Every claim for compensation against natural persons, employees, directors or companies who are employed by Arcagna, or with which Arcagna has concluded agreements in connection with its business operations, and which parties may be held responsible or partly responsible for the damage or loss arising, is ruled out. The aforementioned natural or legal persons may – by way of a third party clause – rely upon these Terms and Conditions, and therefore upon this Article 7, with respect to the client.

The client shall indemnify Arcagna – and the aforementioned natural and legal persons – against third-party claims arising from, or connected to, a failure or wrongful act on the part of Arcagna – or those persons – within the context of the work carried out or to be carried out.

#### **Article 8            Termination**

Either Party shall be entitled to terminate the Agreement by giving notice, with immediate effect if so desired. When giving notice to terminate, the client must at least pay for the services which have been carried out up to the point of termination.

**Article 9            Miscellaneous**

All claims from the client shall lapse 12 months after the work to which the claims relate has been carried out, unless any rights held by the client in accordance with the law have already lapsed previously.

Dutch law shall apply to all agreements and legal relationships with the client.

All disputes between the client and Arcagna shall be submitted to the competent court in Amsterdam, without prejudice to Arcagna's power to submit a dispute to a court which would be competent in the absence of this provision.

These general conditions are registered at the Court of Justice Amsterdam on 5 August 2011 with number 85/2011.