

# Terms of Business

Effective from 16 March 2018

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## 1 Introduction

1.1 **Terms** – These terms apply to the services you have engaged us to provide under the attached engagement letter. These terms together with the engagement letter form the entire agreement between you and us. If anything in these terms is inconsistent with the engagement letter, these terms take precedence, unless the engagement letter specifically amends any of them.

1.2 **Commencement** – The agreement will start on the earlier of (i) the date of the engagement letter; and (ii) the commencement of the services.

## 2 Services

2.1 **Services** – We will perform the services with reasonable skill and care. You confirm that the scope is sufficient for your purpose. The services (including deliverables) are provided solely for you for the purpose set out in the engagement letter or the relevant deliverable.

2.2 **Deliverables** – You may not disclose a deliverable or make the benefit of the services available to anyone else or refer to the contents of a deliverable or the findings of our work, except (i) as stated in the engagement letter, (ii) with our prior written consent on terms to be agreed, (iii) where required by law or regulation, or (iv) to your lawyers or group members as long as you tell them, in advance, that we accept no liability to them and that no onward disclosure may be made.

2.3 **Liability to you alone** – We accept no liability to anyone, other than you, in connection with our services and deliverables, unless otherwise agreed by us in writing. You agree to reimburse us for any liability (including legal costs) that we incur in connection with any claim by anyone else in relation to the services.

2.4 **Changes** – Either we or you may request a change to the services or the agreement. A change will be effective only when agreed in writing.

2.5 **Oral advice and draft deliverables** – You may rely only on our final written deliverables and not on oral advice or draft deliverables. If you wish to rely on something we have said to you, please let us know so that we may prepare a written deliverable on which you can rely.

2.6 **Monitoring** – We shall not update our advice for any changes in law or regulations, or their interpretation, that occur after the date of the services provided.

2.7 **Deemed knowledge** – In performing the services we will not be deemed to have information from other services we or other PwC firms may have provided to you.

### **3 Your responsibilities**

**3.1 Information** – In order for us to advise you properly you will make sure that (i) any information given to us by you, or anyone else working with or for you, is (a) given promptly, (b) accurate and (c) complete; and (ii) any assumptions are appropriate. We will not verify any information given to us relating to the services.

**3.2 Your obligations** – Our performance depends on you performing your obligations under the agreement. We are not liable for any loss arising from you not fulfilling your obligations.

### **4 Fees**

**4.1 Payment for services** – You agree to pay us for our services. Any estimate we may give you is not binding.

**4.2 Basis of fees** – Our fees may reflect not only time spent, but also such factors as complexity, urgency, inherent risks, use of techniques, know-how and research together with the level of skills and expertise required of the personnel needed to perform and review the services. Our fees may include any time spent travelling for the purpose of the services that cannot be used productively for other purposes.

**4.3 Expenses** – You will pay any relevant expenses that we incur in connection with the services.

**4.4 Taxes** – You will also pay any taxes, including VAT, that are due in relation to our deliverables and services. You will pay us the full amount of any invoice, regardless of any deduction that you are required by law to make.

**4.5 Invoices and payment** – Unless otherwise provided in the engagement letter we may invoice you on a monthly basis and all invoices are payable within 14 calendar days of the date of the invoice. If you do not pay an invoice on time we may charge you interest at the rate set by law.

### **5 Confidentiality**

**5.1 Confidential information** – We and you agree to use each other's confidential information only in relation to the services, and not to disclose it without prior written consent, except i) where required by law or regulation or by a professional body of which we or our staff are members, or ii) to our legal advisors or insurers. However, we may give confidential information to other PwC firms or relevant subcontractors or service providers as long as they are bound by confidentiality obligations, and to your advisers who are involved in the relevant matter. The obligations to keep the information received in connection with the agreement confidential shall remain in legal effect indefinitely. The above will not apply to information which (i) is publicly available, or (ii) has been received from someone else who owes no duty of confidence in relation to it, or (iii) was already known by the receiving party.

**5.2 Referring to you and the services** – We and other PwC firms may wish to refer to you and the services we have performed for you when marketing our services, we and they may also wish to use your company logo when citing our experience in proposal documents. You agree that we and they may do so, as long as we do not disclose your confidential information.

**5.3 Performing services for others** – You agree that we may perform services for your competitors or other parties whose interests may conflict with yours, as long as we do not disclose your confidential information and we comply with our ethical obligations.

### **6 Intellectual property rights**

**6.1** Where there are any intellectual property objects in the deliverables we will own the intellectual property rights in the deliverables and any materials created under the agreement, and you will have a non-exclusive, non-transferable licence to use the deliverables for your own internal purposes.

## 7 Data protection

**7.1 Compliance** - You and we will comply with applicable data protection legislation in relation to any personal data shared with us under the agreement.

**7.2 Personal data** - You will not provide us personal data unless the agreement requires the use of such personal data. You confirm that you have competence and necessary authorisation from all relevant data subjects, as required under applicable data protection legislation, in order for us to use and disclose such personal data in accordance with the agreement and that such data subjects have been given necessary information regarding its use.

**7.3 Data processing** - We will process personal data received from you for the purposes of any of: (i) providing the services, (ii) maintaining and using relevant IT systems, (iii) quality, risk and client management activities, (iv) providing you with information, including by means of electronic communication, about us, other PwC firms and our and/or their range of services, (v) disputes and litigation, (vi) confirmation of provision of services for you, and (vii) complying with any legal requirements or requirements of a professional body of which we or our staff are members. We will process personal data on paper as well as in electronic form, for as long as necessary to provide the services under the agreement, safeguard our rights and/or fulfil our obligations resulting from applicable laws, regulations or professional standards.

**7.4 Data processor** - Where we act as a data processor in relation to your personal data (such as: name, surname, e-mail, phone number of your employees, members of management, clients or suppliers), we will: (i) process it only on your lawful documented instructions; (ii) implement appropriate measures designed to ensure its security, including by imposing confidentiality obligations on relevant personnel; (iii) transfer it to sub-processors only under a written contract which imposes obligations equivalent to those in this clause 7.4 and you authorise us to transfer your personal data to them; (iv) provide you with reasonable assistance in carrying out any legally required data protection impact assessments, complying with the rights of data subjects and complying with your own data security obligations under applicable data protection legislation; (v) notify you without undue delay after becoming aware of a breach in respect of it; (vi) subject to clause 10.1, on your request either return or destroy it at the end of the engagement (except as required by applicable law or regulation); and (viii) on your written request, provide you with reasonable information necessary to demonstrate our compliance with this clause 7.4, which may include any available third party security audit reports.

**7.5 Data transfers** - We may transfer personal data shared with us to other PwC firms, subcontractors and IT service providers in relation to any of the purposes set out in clause 7. Some of these recipients may be located outside the European Union. We will carry out such transfers only where we have a lawful basis to do so, including to a recipient who is: (i) in a country which provides an adequate level of protection for personal data; or (ii) under an instrument which covers the EU requirements for the transfer of personal data to data processors outside the EU.

## **8 Liability**

**8.1 Specific types of loss** – You agree that we will not be liable for (i) loss or corruption of data from systems, (ii) loss of profit, goodwill, business opportunity, anticipated savings or benefits or (iii) indirect or consequential loss.

**8.2 Our liability** – You agree that we will be liable only when we are at fault for our actions or omissions. Our total liability (including interest) for all claims connected with the services or the agreement (including but not limited to negligence) is limited to twice the fees payable for the services or the actual damages whichever is the lesser. It is agreed that our fees have been determined in consideration of, and reflect, the limitations set forth in this clause.

**8.3 Sharing of limit** – Where we agree in writing to accept liability to more than one party, the limit on our liability in clause 8.2 will be shared between them, and it is up to those parties how they share it.

**8.4 No claims against individuals** – You agree to bring any claim in connection with the services only against us, and not against any individual, however described.

## **9 PwC firms and subcontractors**

**9.1 Subcontractors** – We may use other PwC firms (each of which is a separate and independent legal entity) or subcontractors to provide the services. We remain solely responsible for the services.

**9.2 Restriction on claims** – You agree not to bring any claim (including a claim for negligence) against another PwC firm (or its partners, members, directors or employees) or subcontractors.

**9.3 Group members** – You will ensure that no group member including your subsidiaries, associated companies and holding company (unless a party to the agreement), both while they are a group member and thereafter, brings any claim against any PwC firm (or its partners, members, directors or employees) or subcontractors in respect of any liability relating to the services or the agreement.

## **10 Materials**

**10.1 Policy** – We may retain copies of all materials relevant to the services, including any materials given to us by you or on your behalf.

**10.2 Release** – We will not release materials which belong to us (including our working papers) unless we have specifically agreed to do so. We may require a release letter from the recipient as a condition of disclosure.

## **11 Termination**

**11.1 Immediate notice** – Either we or you may end the agreement immediately by giving written notice to the other if (i) the other materially breaches it and does not remedy the breach within five business days upon receipt of a notice, (ii) the other is or appears likely to be unable to pay its debts or becomes insolvent or (iii) the performance of it (including the application of any fee arrangements) may breach a legal or regulatory requirement including if the ground for termination is stipulated in Money Laundering and Terrorist Financing Prevention Act.

**11.2 30 days' notice** – Either we or you may end the agreement on 30 calendar days' written notice.

**11.3 Fees payable on termination** – You agree to pay us for all services we perform up to the date of termination. Where there is a fixed fee for services, you agree to pay us for the services that we have performed on the basis of the time spent at our then current hourly rates, up to the amount of the fixed fee. Any contingent element of the fees will remain payable in accordance with the engagement letter. If a contingent fee cannot be paid for regulatory reasons, you agree to pay all outstanding fees on the basis of time spent, unless alternative arrangements have been agreed.

## **12 Dispute resolution**

**12.1 Negotiation** – If a dispute arises, the parties will attempt to resolve it by discussion and negotiation before commencing legal proceedings.

**12.2 Law and jurisdiction** – Estonian law will govern the agreement. The Estonian courts will have exclusive jurisdiction over any dispute, whether contractual or non-contractual.

**12.3 Limitation period** – Any claims must be brought no later than two years after the date the claimant should have been aware of the potential claim and, in any event, no later than four years after any alleged breach.

## **13 General**

**13.1 Matters beyond reasonable control** – No party will be liable to another if it fails to meet its obligations due to matters beyond its reasonable control.

**13.2 Entire agreement** – The agreement forms the entire agreement between the parties in relation to the services. It replaces any earlier agreements, representations or discussions. No party is liable to any other party (whether for negligence or otherwise) for a representation that is not in the agreement.

**13.3 Your actions** – Where you consist of more than one party, an act or omission of one party will be regarded as an act or omission of all.

**13.4 Assignment** – Unless the agreement expressly provides otherwise, no party may assign, transfer or deal with their rights or obligations under the agreement without the prior written consent of the other party, except we may assign any debts to another party for collection. Any assignment without the prior written consent (except as provided above) shall be null and void.

**13.5 Survival** - The provisions of the agreement which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind each of the parties including, but not limited to, 2.2., 2.3, 2.4, 2.6, 2.7, 4, 5, 6, 7, 8, 9, 11.3, 12, 13 and 14.

## **14 Interpretation**

In this agreement the following words and expressions have the meanings given to them below:

- **PwC firm** – any entity or partnership within the worldwide network of PricewaterhouseCoopers firms and entities;
- **services** – the services set out in the engagement letter;
- **deliverables** – any documents (in whatever form) we provide to you from time to time;
- **the agreement** – these terms, any agreed service specific terms and the engagement letter to which they relate;
- **we, us or our** – refers to Advokaadibüroo PricewaterhouseCoopers Legal OÜ whose registered office is at Pärnu mnt 15, 10141 Tallinn, Estonia;
- **you, your** – the party or parties to this agreement (excluding us).