

# **MODEL CONTRACT**



## **Independent Contractors General Terms and Conditions**

Regulating the conditions under which the Principal can enter into commission contracts with independent providers to perform work

## Article 1 - Definitions

When capitalised, the terms below shall have the meaning defined in this article, taking into account that they may be used in the singular or in the plural:

Request:	Specification in which the Principal details his requirements for certain Work to be performed. The Principal will include in the Request the requirements with regard to the Work and the desired Expertise.
AV-ZP:	The present "Independent Contractors General Terms and Conditions" for entering into a commission contract with (an) Independent Contractor(s), being the Provider(s), for the purpose of performing work at the Principal's End Customers.
Appendices:	All documents that are entitled Appendices to the present AV-ZP. They are an integral part of it.
BW:	Dutch Civil Code.
End Customer:	Company or organisation which enters into a commission contract with the Principal.
Expertise:	Specific professional competence and experience that the Provider must have in order to perform the Work.
Intellectual Property Rights:	All intellectual property rights, including but not limited tot copyrights, trade mark rights, model rights, database rights, source codes, patent rights, business secrets, trade name rights and related rights.
Location:	Preferred location for the performance of the Work.
Commission:	Request to the Provider to perform Work outside an employment relationship on behalf of the End Customer in return for payment of the agreed Fee.
Principal:	Registered with the Chamber of Commerce. The Principal is concerned with supplying services to his End Customer to support and optimise their processes of hiring externals. The Principal acts as a link between the End Customer and Provider(s), the latter being (an) Independent Contractor(s)
Provider:	Independent contractor who enters into a Commission Contract with the Principal in order to perform Work at his own expense and risk.
Commission Contract:	Commission Contract in accordance with Article 400, Book 7 of the Dutch Civil Code (BW) between the Principal and Provider, defining the Commission and subject to the AV-ZP.
Force Majeure:	An event which is not imputable to the Party concerned and is not at his risk, including, but not limited to natural disasters, rebellion, war actions, fire and explosion. Force majeure does not include: strikes, staff shortages and inability to meet financial obligations.
Party/Parties:	Provider or Principal. When the term is used in the plural, it refers to both the Provider and Principal.
Fee:	The compensation paid to the Provider for performing the Work carried out on behalf of the Principal on the basis of the Commission Contract.
Work:	Work and/or advice to be performed/supplied as part of the execution of the Commission.

## Article 2 - Applicability and Scope of the Terms & Conditions

1. The present terms and conditions contain the general agreements between the Principal and Provider on the basis of which the Parties can enter into a commission contract for the performance of Work at the End Customer. The AV-ZP contains conditions which are identical (in fiscal relevance) to the model agreement published by the Dutch Tax Authorities on 9th

December 2016 under number **904168035**. The AV-ZP also contains conditions which reflect the conditions agreed upon by the End Customer and the Principal.

2. The Parties shall conclude a separate Commission Contract for each Commission. Commission Contracts are concluded exclusively in writing. The Commission Contract shall contain the specific agreements with regard to the Commission and shall as a minimum contain:
  - a. description of the Work under direction (charged by time unit) and - if applicable - the Result, being the expected result based on the performed Work;
  - b. fee;
  - c. start date and end date, being the period within which the Work must be performed, and which shall also be the starting date and date of termination of the Commission Contract.
3. The level of Expertise which the Provider must meet is further detailed in the Request. If the Provider is not aware of the required Expertise, the Principal shall inform the Provider of the same before the Commission Contract is signed.
4. The present AV-ZP are applicable to the Commission Contract. Deviations from the AV-ZP shall be stipulated in writing by the Parties in the Commission Contract.
5. If a Commission Contract contains a provision which deviates from the AV-ZP, then such deviation(s) shall only apply in relation to that particular Commission Contract. This deviation shall therefore not be a deviation to the AV-ZP in general or other future Commission Contracts between the Parties.
6. The applicability of other general terms and conditions of the Parties or sector-specific terms and conditions is explicitly excluded.
7. The AV-ZP also contains conditions which may involve a third-party clause in accordance with Art. 6:253 BW. This means that particular conditions may create a direct right of action against the Provider by the End Customer .
8. Should any provision in the present AV-ZP be wholly or partially in conflict with any mandatory legal provision, the remainder of the AV-ZP shall remain in force. As far as the void, annulled or nullified provisions are concerned, the Parties shall negotiate new provisions which will approximate the invalid, annulled or nullified provisions as closely as possible.
9. In case of conflict between the applicable documents, the following hierarchy shall apply:
  - a. The Commission Contract
  - b. The AV-ZP
  - c. The Appendix/Appendices
10. If the End Customer changes his conditions towards the Principal, or the relevant laws and regulations are amended or the Dutch Tax Authorities withdraw previously granted approval, the Principal may unilaterally amend the conditions in the AV-ZP, with due observance of the principle of reasonableness and fairness. A new version of the AV-ZP shall be formulated and the applicability of the new AV-ZP shall be confirmed to the Provider by Commission of Contract.

### **Article 3 – Consensus and independence**

1. The Parties wish to enter into a contract with each other exclusively on the basis of a commission contract in the sense of Art. 7:400 et seq. BW.
2. The Parties emphasise that they do not intend to enter into an employment contract in the sense of Art. 7:610 et seq. and 7:690 et seq. BW.
3. The Parties desire explicitly to prevent applicability of a notional employment relationship contracted via an intermediary.

4. The Parties elect to exclude from applicability - when applicable - the notional employment relationship of homeworkers or individuals deemed equivalent to someone in a position of employment, and therefore they shall draw up and sign the Commission Contract before payment takes place.
5. The Parties emphasise that they intend to avoid creating an obligation on the Principal to withhold income taxes under the Salaries Tax Act 1964 or an obligation on the Provider for compulsory insurance under the Unemployment Insurance Act, Sickness Benefits Act and the Work and Income according to Labour Capacity Act .
6. As Parties wish to enter into a contract with each other exclusively on the basis of a Commission Contract, the Parties shall bind themselves to ensure that their actions when implementing the Commission Contract and performing the Work are in accord with the content and meaning of the AV-ZP and the Dutch Civil Code in which the commission contract has been concluded.
7. The Provider confirms that he is an independent contractor and that he will perform the Work at his own expense and risk. The Provider guarantees that he is registered with the Chamber of Commerce and has been issued with a VAT number by the tax authorities. The Provider guarantees that he has no indications that the tax authorities have started an investigation into his enterprise in relation with income tax and/or have interrogated him about income tax. Additionally, the independent contractor shall be obliged to disclose any change in these circumstances.
8. The Parties understand that approval of the present AV-ZP within the framework of the DBA (Assessment of Employment Relationships Deregulation) Act does not constitute an assessment by the tax authorities on the fiscal entrepreneurship of the Independent Contractor. The Provider shall keep the Principal informed of any organisational and personnel developments and/or changes within his organisation in as much as they are relevant to the implementation of the Commission Contract.
9. The Parties and the End Customer have explicitly discussed and agreed that the Work is performed on the basis of a Commission Contract.
10. The Provider is aware of the requirements and risks of (fiscal) entrepreneurship.
11. The Parties explicitly state that it is their intention to (continue to) regard their relationship under this agreement as a commission contract as referred to in Article 400, Book 7 of the Dutch Civil Code and not as an employment contract as referred to in Article 610, Book 7 of the Dutch Civil Code. The Parties are mutually obliged to implement this agreement and to fulfil it in accordance with their intention to enter into a commission contract.
12. The Provider states that he has sufficient Expertise to perform the Work independently and without further explanations by the Principal.
13. The Provider bears personal responsibility and is thus fully responsible for performing the Work.
14. Within the context of the Work, the Provider is free to choose the method in which he performs the work, with due observance of the provisions in article 5.
15. The Parties are aware that the Provider may work in a team with and/or perform similar work to that of employees who are in paid employment of the End Customer or third parties. The Parties are aware that in this context, the provision in article 5 paragraph 2 is relevant. The Provider also acknowledges that he has no direct legal relationship with the End Customer and has no claim on employment with the End Customer during or after completion of the Commission.

#### **Article 4 - Principal Responsibilities and Obligations**

1. In relation to the Provider, the Principal guarantees that he shall supply his services in an expert fashion, professionally and with due care.
2. The Principal shall keep the Provider informed of any organisational and personnel developments and/or changes within his organisation if and in so far as they are relevant to the implementation of the Commission Contract.

3. The Principal undertakes to prioritise the End Customer's and Provider's interests and to take up the neutral position of a proper Principal.
4. The Principal is a member of Bovib (Sector Organisation of Intermediaries and Brokers) and must act in accordance with the Bovib code of conduct (see [www.bovib.nl](http://www.bovib.nl)).
5. The Principal explicitly states his agreement with the fact that the Provider also performs work for other Principals.

#### **Article 5 – Provider Responsibilities and Obligations**

1. The Provider accepts the Commission and in doing so accepts full responsibility to perform the Work correctly.
2. The Provider will manage the Work independently. Nonetheless, if the Work involves collaboration with others, he will liaise with Principal and End Customer and any third parties in as much as necessary for the performance of the Commission, in order to ensure proper performance of the Work. If necessary for the performance of the Work, the Provider will observe the End Customer's office hours. It is the responsibility of the Provider to liaise further with the Principal about the performance of the Work in case of changes in understanding or circumstances.
3. The Provider shall perform the Work completely independently. He shall perform the agreed work at his discretion, without supervision or direction by the Principal and End Customer. However, the Principal and End Customer may give instructions and directions as to the result of the Commission.
4. In relation to the End Customer, the Provider guarantees that the Provider shall act in accordance with any non-employee-exclusive policies, procedures and house rules that are in force at the End Customer (such as safety regulations), with which the Provider shall independently familiarise himself, if and in so far as this does not affect the provision in the third section of this article.
5. The Provider guarantees that the Provider has the level of training, Expertise, diplomas and certificates, the experience and competencies to implement the Commission Contract properly and in accordance with applicable regulations, legal or otherwise.
6. The Provider guarantees that the Work shall be performed with the greatest possible care, as referred to in Article 7:401 BW.
7. The Provider undertakes to follow any timely and justified directions by the end Customer regarding the result of the Commission. These directions shall be included in the Commission Contract with as many specifications as possible and taking into account the nature of the Commission.
8. After completion of the Work, the Provider shall be accountable to the End Customer for the method by which he has performed the Work. The nature and volume of the information to be supplied must be in accordance with the nature and size of the Commission.
9. The Provider is responsible for the performance, quality and continuity of the Work.
10. The Parties do not intend the provisions in the present contract to lead to the creation of an employment contract in the sense of Article 7:610 and/or Article 7:690 BW between the Principal and the Provider or the End Customer and the Provider.

#### **Article 6 – End Customer Responsibilities and Obligations**

1. The Principal has stipulated the following with the End Customer on behalf of the Provider:
  - a. In the Request, the End Customer shall indicate the following: the required Qualifications of the Provider, the Work that is to be performed and an estimate of the period during which the Work should be performed.

- b. The End Customer undertakes to provide the Provider with access to the Location, and to enable the Provider to perform the Work at the End Customer in acceptable conditions.
  - c. The End Customer shall meet all necessary safety requirements with regard to the rooms and the items with which the Provider will be working and shall make such arrangements and provide such directions for performing the Work as are reasonably necessary to prevent the Provider suffering damages when performing the Work.
  - d. The Provider shall use his own tools, resources and materials for performing the Work, unless the nature of the Work and/or the safety requirements of the End Customer necessitate the provision of tools, resources or materials by the End Customer. The Provider shall pay fair compensation for the above. This compensation shall be deemed to have been included in the Fee, unless otherwise agreed. The Provider must act with all reasonable and usual care, skill and forethought with regard to these items. On termination of the Commission Contract and/or at the first request of the End Customer, the Provider shall return all items provided to him within 24 hours after termination of the Commission Contract or after the End Customer's request. Any damage to the items concerned shall be recovered from the Provider. The Parties emphasise that provision of resources and materials is necessary for performing the Work.
2. If the End Customer fails in his duty to meet his obligations under this article, the Provider can call the Principal to account to demand performance.

#### **Article 7 – Term, Extension and Termination of the Commission Contract**

1. A Commission Contract comes into force on the Start Date listed in it and is entered into for a definite period.
2. The Start Date and End Date as included in the Commission Contract determine the period within which the Work must be performed or the result must be achieved.
3. The Commission Contract may be extended for a period to be agreed by the End Customer and Provider. In case of extension, the Principal must notify the Provider in writing of the agreement to do so before the end of the current term. The Principal shall confirm the agreed (new) End Date of the Commission Contract to the Provider in writing as soon as the corresponding confirmation by the End Customer has been received. The Provider is aware of the fact that in case of undue delay in extending the contract any risks, such as delays in payment of the Provider's invoices, are borne by the Provider. The Principal has a best efforts obligation to find out in a timely manner why confirmation of the extension has been delayed.
4. In accordance with Article 7:408 paragraph 1 BW, the Principal is entitled to terminate the Commission Contract by means of written cancellation at any (interim) date, without the Principal or End Customer being liable for damages.
5. In accordance with Article 7:408 paragraph 2 BW, the Provider is not entitled to terminate the Commission Contract by means of cancellation at an interim date, except on serious grounds. In this context, serious grounds cannot under any circumstances include the Provider's commercial interests.
6. Termination of the Commission Contract does explicitly not release the Parties from their associated obligations with regard to article 13 (intellectual property rights and confidentiality) and article 14 (liability).

#### **Article 8 - Working days, working hours and location**

1. The working days and working hours are determined in consultation between the End Customer and the Provider, on the understanding that the nature of the Work may mean that the Provider will be expected at certain times.
2. During the absence of the Provider due to leave or sickness, the Commission Contract continues to run and the Start and End Dates in the Commission Contract shall therefore remain unchanged. In case of long-term absence, the provisions in article 9.2 are applicable.

3. If necessary, the Work shall in principle be performed on site at the End Customer's premises. When applicable, the Provider may perform the Work at a different Location, in consultation with the End Customer.

#### **Article 9 – Replacement**

1. The Commission has been awarded to the Provider on the basis of his specific Expertise. The Provider is free to engage a replacement for himself to perform the work. The Provider shall inform the End Customer and the Principal of the identity of the person performing the Work for him in advance of the replacement. The End Customer is not entitled to refuse the replacement, unless the End Customer finds that the replacement does not meet one or more of the qualifications contained in the Request or in the Commission Contract.
2. The Provider shall remain responsible for the quality of the work and compliance with the Commission Contract and the present AV-ZP at all times, including during the period of replacement. The Principal shall agree a provision in favour of a third party with the replacement in relation to the End Customer, with regard to the agreements between the Parties in article 13 of this contract relating to intellectual property rights, in as far as they arise from this Commission and to such an extent that the End Customer has the same rights as if the Provider had not had himself replaced.
3. The Provider shall himself invoice the Principal for that part of the compensation referred to in article 10 relating to the work performed by the replacement. The replacement shall not be permitted to invoice the End Customer directly.
4. If the Provider is unable to perform the agreed Work for longer than two consecutive weeks due to illness or for other reasons, the Principal is entitled but not obliged, at the request of the End Customer, to require the Provider to provide a replacement and the Provider shall duly comply with this request.
5. Replacing the Provider shall not lead to increased costs for the End Customer or the Principal. The Parties and the End Customer shall mutually determine any extra costs associated with the replacement before the replacement starts the work.

#### **Article 10 - Compensation**

1. The Principal shall owe the Provider the Fee listed in the Commission Contract for performing the Work as compensation, without prejudice to the provisions in sections 5 to 9 inclusive of this article. The Fee is a cost price excluding any turnover tax and including all costs, including all relevant tax and national insurance contributions and schemes.
2. The Parties emphasise that the Fee is determined on the basis of supply and demand and has not been imposed unilaterally by the Principal or the End Customer. The Parties also emphasise that the Fee is not a wage agreement within the meaning of Article 7:610 BW. The Provider is responsible for paying any turnover tax and if applicable, wage taxes and employee insurance premiums.
3. Only the hours actually worked by the Provider are eligible for compensation.
4. The Principal does not owe compensation to the Provider for any hours when the Provider did not perform the Work due to illness, leave or any other circumstance attributable to the Provider.
5. The Principal shall not differentiate between hours worked on normal working days or those worked at the weekend and/or on national holidays, nor between hours worked during office hours or outside office hours, unless agreed otherwise in writing.
6. If a daily reimbursement has been agreed, the Principal shall pay this daily reimbursement to the Provider for each day on which the Provider worked a minimum of eight (8) hours on the Work, regardless of the actual number of hours worked.
7. The Principal shall not be liable to pay compensation for work which was performed before the start date or after the end date of the Commission Contract

8. The Fee may not be unilaterally raised or index-linked by the Provider, neither during the initial term of the Commission Contract, nor during any extension(s).
9. Business travel and subsistence expenses shall only be paid if and in so far as the End Customer has given prior written approval.

#### **Article 11 – Time sheets, invoicing and payment**

1. The Provider shall be responsible for a proper time sheet produced in a method stipulated by the End Customer. This time sheet shall be definitive once approved by the End Customer. Accounting for the number of hours worked is necessary for the Principal's and End Customer's operations as it enables verification of the invoices.
2. The completed and approved time sheet and (extended) Commission Contract form the basis of the invoices submitted to the Principal by the Provider.
3. The Provider shall invoice the Principal for the Work performed by the Provider under the Commission Contract. The invoice is based on the hours approved by the End Customer. The Provider must include the time sheet approved by the End Customer.
4. The Provider's invoices must comply with legal requirements and contain a statement of the number of hours worked, the rate, the month and year in which the Work was performed.
5. Provider invoices must originate from the correct legal entity of the Provider and be addressed to the correct legal entity of the Principal, being the entities with which the Commission Contract was concluded.
6. The Provider must invoice for any costs incurred on the basis of the Commission Contract. The Provider must include a specification of the expenses, signed by the End Customer.
7. Invoices which meet the requirements in this article shall be paid by the Principal within the payment term specified in the Commission after receipt of the invoice. Billing takes place over an entire calendar month.
8. In case of dispute about the accuracy of the invoice and/or the time sheet, the Principal shall inform the Provider and the Parties shall discuss their disagreement as soon as possible. In that case, the payment term referred to in the seventh section of this article shall commence as soon as the Parties have reached agreement on the accuracy of the invoice or upon receipt by the Principal of the amended invoice sent by the Provider.
9. The Provider is aware that he is subject to a default risk. This means that non-payment by the End Customer of the Principal's invoices, for whatever reason, will result in the Principal not being under an obligation to pay, in accordance with this article, the associated invoices. The Principal has a best efforts obligation to ascertain promptly why non-payment has occurred, in order to prevent default risk to the Provider.

#### **Article 12 - Compliance**

1. The Parties do not intend that a situation exists where labour is made available under direction and supervision, and that consequently the Waadi (Placement of Personnel by Intermediaries Act) and the liability for using external personnel, contained in the Collection of State Taxes Act 1990, shall not be applicable.
2. The Parties wish to prevent applicability of a notional employment relationship contracted via an intermediary. In order to achieve this, the Provider must perform the Work as part of conducting his business or during the independent practice of a profession. The Parties have established that permanent compliance with this condition requires the Provider to be not overly dependent on Commission Contracts with the Principal in order to win contracts and earn revenue (economic independence). Therefore, the Principal shall keep account of the number, term and volume of Commission Contracts concluded by the parties. If the Principal in his exclusive judgement has reasonable doubts as to the above mentioned economic independence of the Provider, the Principal shall cease entering into Commission Contracts with the Provider until such time as his doubts have been alleviated. The Principal shall inform the Provider in writing when he has reached such a judgement.



3. The Provider is obliged to demonstrate to the Principal that this condition has been met and in order to do so, before signing the Commission Contract, he shall submit at least the following documents to the Principal:
  - a. Copy of proof of the Provider's registration in the Register of the Chamber of Commerce dated in the past three months.
  - b. Copy of recent documentary evidence that the Provider has a turnover tax reference number, unless the Work is exempt from turnover tax.
4. At the start, during and on termination of a Commission Contract, the Provider, at the request of the Principal, shall be obliged to provide truthfully and in writing information and to answer (lists of) questions which can be used to determine the extent to which the actual implementation of the Commission Contract could lead to suspicions that there exists a (notional) employment relationship between the Parties. The Principal is exclusively entitled to formulate these (lists of) questions.
5. If and in so far as legally possible, the Provider shall indemnify the Principal against all losses suffered by the Principal in this respect, including costs, statutory interest and tax interest resulting from additional wages tax being called in (which should be taken to mean wages tax and national insurance contributions) by the the tax authorities on the grounds of employment under private law or fictitious employment with regards to the engagement of the Provider, provided that the additional tax claim by the tax authorities is based on an actual circumstance which shows that the Provider performed the Work in employment under private law or fictitious employment.
6. The Principal may request additional information from the Provider in relation to implementing statutory regulations and the Principal may transfer this information to the End Customer. The Principal and End Customer shall comply with obligations arising from the Personal Data Protection Act (Wbp). The Provider shall not be liable for the losses if the Principal and/or End Customer have failed to meet any obligation arising from the Personal Data Protection Act.
7. The Provider agrees in advance to the Principal supplying to the End Customer copies of the documents provided by the Provider as well as the Commission Contract(s) concluded with the Provider.
8. The Principal is entitled to cancel the Commission Contract with immediate effect and without being liable for damages, if the Principal is of the opinion that there is an unacceptable risk to the Principal or End Customer on the basis of laws and regulations, or if the Provider does not adequately inform the Principal of changes in the facts and circumstances as referred to in this article.
9. The Provider shall inform the Principal immediately in case of changes to the registration of the Provider with the Chamber of Commerce and/or changes in the Turnover Tax Reference Number of the Provider.
10. The Provider shall contact the Principal if the Provider is of the opinion that the Provider is in danger of actually performing the Work as a paid employee of the End Customer. The Principal shall enter into consultations with the End Customer to ascertain whether the Provider is performing the Work in the above mentioned manner. If the Principal is of the opinion that this is indeed the case, he shall inform the End Customer and the Provider in writing and set a deadline for the Provider and the End Customer to make or omit all necessary arrangements to ensure that the Provider no longer performs the Work as a paid employee of the End Customer. If the End Customer and/or the Provider fail to meet the deadline, the Principal is entitled to terminate the Commission Contract with immediate effect, without being liable for compensation.

### **Article 13 Intellectual Property Rights and Confidentiality**

1. Unless agreed otherwise in a Commission Contract, all intellectual property rights which can now or in the future be exercised whenever or wherever, in relation to the results of the Work, shall rest with the End Customer.  
These rights are transferred by the Provider to the End Customer on the basis of the present AV-ZP, and such transfer is accepted by the End Customer in advance immediately on creation of

such rights. The Provider shall only have a right of retention on the aforementioned intellectual (property) rights for the period in which the Principal has not paid the associated invoices. In as much as a further deed is required for the transfer of such rights, the Provider shall cooperate with the transfer of such rights to the End Customer at the first request of the End Customer, without being entitled to impose any conditions.

Any costs associated with establishing certain intellectual (property) rights shall be at the expense of the End Customer. In doing so, the Provider irrevocably authorises the End Customer to register the transfer of these intellectual (property) rights in the relevant registers.

2. The Provider is obliged to impose an obligation on all persons he may have engaged to perform the work, which is identical to the obligation of the Provider as referred to in this article, to such an extent that the relevant persons can be forced to transfer any intellectual property rights they may have to the End Customer, and the Provider is obliged to do everything in his power to ensure that the End Customer becomes the owner of such rights.
3. The Provider hereby grants the End Customer an unlimited, non-exclusive, non-transferable licence with regard to Materials or parts of software or Documentation which he will use to implement the Commission Contract and of which the intellectual (property) rights shall not now or in future rest with the End Customer. The Provider hereby irrevocably authorises the End Customer to register the licence thus granted in any register. The End Customer shall not be liable for any additional compensation with regard to this licence, unless agreed otherwise in the Commission Contract.
4. If there is any dispute between the Parties regarding ownership of Materials, results of Services or Documentation or the relevant intellectual (property) rights respectively, it will be assumed that the End Customer has ownership until sufficient evidence to the contrary has been produced by the Provider.
5. The Provider undertakes not to make the results of the Work available to third parties in any form, nor to inform third parties about the results in any way, unless the Principal has granted explicit written permission. The Principal is entitled to attach conditions to such permission, such as the payment of compensation by the Provider for the exclusive rights of the Principal, at a rate to be determined by the Principal, or royalty payments by the Provider in return for a licence, at a rate to be determined by the Principal.

#### **Article 14 - Liability**

1. The Parties mutually guarantee that they will properly comply with all obligations relevant to them as arising from the Commission Contract (and all associated obligations including those based on the present AV-ZP).
2. The Principal shall be liable for losses suffered by the Provider, End Customer or third parties if the Principal has been negligent in carrying out his service provision and the losses incurred are the direct result of such actions/negligence by the Principal.
3. The Provider is liable for losses in connection with performing the Commission Contract. The Provider shall indemnify the Principal and End Customer against any claims and losses, as well as all claims by third parties to compensate for any loss, including loss as a result of death or bodily injury, in connection with performance of the Commission Contract. The Provider is exclusively liable in case of an imputable failure on the part of the Provider and in as much as the Provider was able to effect or could have affected this in any way.
4. If, in the judgement of the End Customer, the Provider has performed the Work in such a way that the work is unsound (because of lack of Expertise, lack of professional competences and/or negligence of the Provider) and/or the Result does not meet the expectations laid down in the Commission Contract, although the number or hours worked may have been approved, the End customer may require that the Work is performed again or corrected, as soon as possible and at the Provider's expense, until the End Customer no longer judges the work to be unsound and/or the result to be inadequate. If in the opinion of the End Customer, a new performance or correction of the work is not possible, the Principal, at the request of the End Customer, has the following options:
  - a. terminating the Commission Contract with immediate effect and having the Work performed by a third party, at the expense of the Provider;
  - b. terminating the Commission Contract with immediate effect and claiming replacement compensation from the Provider.

5. With regard to the Provider, the Principal undertakes to provide all reasonably necessary assistance in disputing claims by the End Customer or third parties, both in and out of court.
6. The Parties are not liable for indirect losses, including lost profit, lost savings and losses due to disruption of operations.
7. The liability as referred to in sections 2, 3, and 4 of this article is limited to three times the value of the total commission.
8. The limitation included in section 7 of this article is not applicable in case of:
  - a. claims by third parties to compensation as a result of death or bodily injury;
  - b. intent, gross negligence or wilful recklessness;
  - c. loss as a result of failing to meet the obligations referred to in article 12;
  - d. breach of intellectual property rights or confidentiality as referred to in article 13.
9. The Provider shall ensure that during the term of the Commission Contract he shall have adequate insurance in place relating to business and/or professional liability with a minimum cover per event or series of connected events. The Provider shall submit proof of cover to the Principal at the Principal's request. The Provider shall inform the Principal and the End Customer immediately of any modifications to the insurance as referred to in the second section of this article, if such a modification could affect the insured status of the Provider and/or the Commission Contract.
10. The End Customer shall meet all necessary safety requirements with regard to the rooms and the items with which the Provider will be working and shall make such arrangements and provide such directions for performing the Work as are reasonably necessary to prevent the Provider from suffering damages when performing the Work.
11. The Principal shall indemnify the Provider against claims in relation to damages incurred by the Provider or a third party during the performance of the Work in as much as they are the result of an attributable failure by the End Customer to perform his obligations and/or intent or gross negligence by the End Customer, subject to the following conditions:
  - a. the Provider informs the Principal of a claim without delay;
  - b. the Provider does not accept liability or a settlement without the Principal's permission;
  - c. the Provider leaves the entire process of dealing with the claim to the Principal;
  - d. the Provider grants the Principal all assistance required to defend himself against a claim.
12. Claims as a result of the above must be submitted in writing within 2 months of the loss arising, to the party liable for the damages, on penalty of the lapse of liability.
13. The Principal is free to terminate the Commission Contract at any time or to suspend compensation for the performed Work if the Provider fails to meet his obligations arising from the Commission Contract (and all related obligations, including in the present AV-ZP). If the Principal exercises his right to suspension of compensation, this does not release the Provider from his obligations arising from the Commission Contract.

## **Article 15    Complaints**

1. If the Provider is of the opinion that in implementing a Commission Contract the Principal fails to observe the Bovib code of conduct and/or has other complaints, the Provider may notify the Principal's Board of Directors. The Parties shall deal with the complaint in joint consultation.
2. If the End Customer has a complaint about the performance of the Work, the complaint shall be dealt with in joint consultation between the Provider and the End Customer. If the complaint cannot be remedied in joint consultation between the Provider and the End Customer, the End Customer shall follow the Principal's complaint procedure. The Parties shall deal with the complaint in joint consultation.
3. If the Provider has a complaint about the End Customer, the complaint shall be dealt with in joint consultation between the Provider and the End Customer. If the complaint cannot be

remedied in joint consultation between the Provider and the End Customer, the Provider shall follow the Principal's complaint procedure. The Parties and the End Customer shall deal with the complaint in joint consultation.

#### **Article 16 - General provisions**

1. Any contract which is already in place between the Parties and between the End Customer and Provider, shall not apply to the Commission Contract(s) between Parties to which the present AV-ZP is applicable.
2. Changes and additions to the AV-ZP and/or Commission Contract(s) are only valid if they have been set down in writing and both Parties have explicitly agreed with the changes or additions by placing their signature.
3. In case of Force Majeure, the compliance by the Parties with the obligations arising from the AV-ZP and/or Commission Contract shall be suspended fully or partly for the duration of the Force Majeure without the Parties being liable to each other for compensation in this matter. A case of Force Majeure shall immediately be notified in writing and documentary evidence shall be submitted to the other Party as soon as possible.
4. If a provision in the AV-ZP or a Commission Contract proves to be non-binding, the remaining provisions between the Parties shall remain in force. The Parties shall undertake to replace the non-binding provision with a provision which is binding and which is as similar as possible to the non-binding provision, taking into account the purpose and content of the AV-ZP and the Commission Contract. In particular, the Parties shall undertake to adapt the AV-ZP or Commission Contract in case of changes in the law which affect the AV-ZP or Commission Contract, by proper mutual consultation and in accordance with the provisions of the section.

#### **Article 17 Applicable Law and Disputes**

1. Dutch law is applicable to this AV-ZP and each Commission Contract.
2. In case of a dispute between the Parties arising from or in connection with (the performance of) the present AV-ZP or a Commission Contract, the Parties shall attempt to reach an amicable settlement in proper consultation. If the Parties are unable to reach such a settlement within a reasonable period of time, the dispute shall be submitted to the competent court.