



TRIPLE A

GENERAL TERMS AND CONDITIONS TRIPLE A – RISK FINANCE BELGIUM



General Terms and Conditions
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General Terms and Conditions

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General Terms and Conditions

These General Terms and Conditions as stipulated herein are applicable between the Client and Triple A – Risk Finance Belgium B.V. / SRL with company registration number 0750.515.724 (in these GTC referred to individually as “Triple A”). The Client and Triple A will be jointly referred to as the “Parties” or individually as “Party”.

1 General & Definitions

1.1 Triple A will carry out advisory services and activities in the field of consultancy (“**Services**”) for the Client, who will purchase and pay for the Services, under the conditions and provisions as stipulated in the GTC and the Contract.

1.2 Words in these GTC that are capitalized have the meaning as defined below both in singular and plural:

“Assignment”	The Services, Fee, duration of the Services and other operational elements for the provision of Services;
“Client”	The Party which will purchase the Services of Triple A and hereby commits himself to payment, under the conditions and provisions as stipulated in the GTC and the Contract;
“Consultant”	A natural person who will carry out the Services, being an employee of Triple A, a self-employed person or independent professional hired by Triple A, or an employee hired by Triple A from a third party;
“Contract”	The agreement between Triple A and the Client regarding the performance of Services by Triple A, consisting of all that is agreed, such as the Order Confirmation and the GTC;
“Fee”	The compensation, payable by the Client to Triple A for the execution of the Services as further detailed in the Assignment;
“Fixed Fee”	A fixed price for the Services based on a result to be achieved;
“GTC”	These general terms and conditions;
“Order Confirmation”	The written description and recording of the Assignment;
“Qualifications”	The qualities that a Consultant must possess as agreed upon with the Client, which will be described or specified in the Order Confirmation, for example in the areas of (i) knowledge, experience, and skills, (ii) personality and social skills, and (iii) compliance requirements;
“RFC”	A request for change of and/or addition to the Services.

2 Applicability

2.1 These GTC are applicable to all Contracts, Assignments, proposals or any related communication regarding advisory services and activities in the field of consultancy, whereby a certain expertise is required by Triple A and its Consultants at the Client, or any legal relationship between the Parties pertaining to the former.

2.2 Triple A explicitly rejects the applicability of any general terms and conditions of the Client, or of a third party to a Contract or the negotiations on it. Any general terms and conditions in the

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order or order confirmation of the Client, invoice, or other document or correspondence provided to Triple A are not applicable to and do not affect the Contract or any negotiations thereof.

- 2.3 Deviations from and additions to these GTC only apply if confirmed in writing by Triple A.

3 Acceptance of the Contract

- 3.1 The information as stated in proposals which are issued by Triple A or its employees is only indicative and in no way binding. Prices and other conditions which are indicated are only intended as a non-binding invitation to enter into negotiations and are not an offer in the legal sense, unless these are signed by authorised persons to that effect. Unless stipulated otherwise, binding offers issued by Triple A have a validity period of 30 calendar days.
- 3.2 Upon acceptance of a binding offer, Triple A commits itself to perform the activities as described in the relevant Assignment and in conformity with the conditions of these GTC. The Client hereby commits himself to pay the agreed Fee. The Assignment will in principle be recorded between the Parties by their authorised persons in an Order Confirmation.

4 Performance of the services

- 4.1 Parties will determine the activities jointly.
- 4.2 Triple A and the Consultant shall be completely independent in the performance of the Services. Parties explicitly agree that there is no subordinate relationship between Triple A and Client.
- 4.3 Client undertakes to respect Triple A's independence and therefore refrains from giving specific instructions to the way in which Triple A and the Consultant carry out the work and manage the working hours.
- 4.4 Parties expressly confirm that the independence of Triple A in the performance of the Assignment is an essential element of the Assignment, without it, the Contract not having been concluded.
- 4.5 Triple A is entitled, after consultation with the Client, to replace a Consultant, provided the continuity of the activities is secured as much as possible and Triple A ensures the replacement meets the Qualifications as laid down in the Order Confirmation.
- 4.6 Parties strive to describe the following elements, to the extent relevant, in an Order Confirmation:
- a. the Services;
 - b. the effective term (start date and end date);
 - c. the result(s) to be achieved;
 - d. the Fee payable.

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5 The Consultant

- 5.1 Triple A aims to ensure that the Consultant is compliant, and, at least for the duration of the Assignment, will continue to comply, with the Qualifications.
- 5.2 Triple A aims that the Consultant has undergone a 'pre-employment screening' within 4 weeks following employment at Triple A or at least within 2 weeks after the start of the activities established in the Contract.
- 5.3 The deployment and activities of the Consultant are limited to what is agreed prior to or after the start of the Assignment by mutual agreement between Triple A and the Client. The hiring of the Consultant to a third party or deployment of the Consultant abroad is only possible if Triple A has granted its explicit written consent for this.
- 5.4 If the Consultant is self-employed, Triple A will take care of diligent hiring, assured by a sound hiring agreement, whereby the self-employed person is assessed for economic independence and entrepreneurship.

6 Non-solicitation

- 6.1 The Client and its affiliated companies are not permitted to enter into an employment agreement or any other type of labour agreement (other than the Assignment) with the Consultant during or within 2 years after termination of the Assignment, without the prior permission from Triple A.
- 6.2 If the Client is in violation of what is stipulated in section 1 of this article, the Client owes Triple A an immediately payable penalty of the amount of EUR 50,000 per violation and EUR 5,000 per day that the violation continues. This does not affect the right of Triple A to demand full legal damages from the Client.

7 Duration

- 7.1 The Assignment is entered into for the period of time that results from the nature of the Assignment and/or is stipulated in the Order Confirmation.
- 7.2 If an execution period or end date has been agreed upon for the completion of certain activities within the duration of an Assignment, this is never a strict deadline. If the execution period or end date is exceeded, a written notice of default is always required before default occurs.
- 7.3 An Assignment for a fixed period is entered into for:
- A period established in advance, with an established start and end date; or
 - An objective or result established in advance, whereby the realisation of said objective or result brings the assignment to an end; or
 - A period to be further established which in any case does not exceed the final expiry date.

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8 Termination of the Assignment

- 8.1 The Assignment for a fixed period ends by law and save for further provisions in these GTC and the Contract cannot be terminated prematurely.
- 8.2 The Assignment for an indefinite time can be terminated by each of the Parties in writing, with due regard of a notice period of at least one month.
- 8.3 Each Party has the right in to terminate the Assignment in any case with immediate effect in writing, without leading to the entitlement of a Party to compensation of damages, if:
- a. the other Party is in a state of bankruptcy;
 - b. the other Party applies for, or is granted temporary suspension of payment;
 - c. (the organisation of) the other Party is liquidated;
 - d. the other Party is not providing or performing its obligations from the Contract for at least 30 days due to force majeure;
 - e. a situation occurs which can be further specified in the Assignment.
- 8.4 In all cases of (premature) termination, Triple A retains the right to payment by the Client of the Fee for the part of the Assignment already performed by Triple A.

9 Fee and payment

- 9.1 Unless Parties agreed to work on the basis of a Fixed Fee, the Fee is based on (i) the hourly rate of the relevant Consultant; and (ii) the number of hours agreed in the Order Confirmation, plus any overtime.
- 9.2 The Fee does not include VAT or other taxes.
- 9.3 Unless otherwise agreed, the Consultant's travel costs, costs for accommodation and other expenses are not included in the Fee and must be reimbursed to Triple A by the Client.
- 9.4 The Fee will not be reduced during an Assignment. If the Client indicates he wishes to extend or renew the Assignment, Triple A has the right to re-negotiate the Fee. Triple A is allowed to adjust the Fee once per year with a percentage with a minimum of the index rate as agreed per the collective labour agreement within the relevant joint committee (paritair comité) or 2% if no collective labour agreement applies.
- 9.5 Save in case of force majeure, as further described in article 14 of these GTC, the situation that no activities can be conducted, just as the lack of activities to be conducted, lies in the sphere of risk of the Client. In such a situation, the Client remains under the obligation to pay the agreed Fee and is not authorised to suspend the agreement. It is not relevant, thereby, whether the Consultant is subject to an attendance obligation during this period.

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- 9.6 The Client is bound at all times to pay the invoices submitted by Triple A within 14 days after receipt. If the invoice is not settled within this period, the Client is legally in default from the day following the expiry date for payment, without any prior default notice. In case of default of the Client, Triple A has the right to charge interest on the delayed payment, as well as the judicial and extrajudicial costs which were incurred to proceed with the collection of the Fee. The level of the interest will be in conformity with the law of 2 August 2002 on combating late payment in commercial transactions ("De wet van 2 augustus 2002 betreffende de bestrijding van betalingsachterstand bij handelstransacties").
- 9.7 The correctness of an invoice submitted by Triple A is assumed if the Client has not objected to the correctness of the invoice within the payment period.
- 9.8 In the event of a dispute regarding the correctness and completeness of an invoice, Triple A's administration shall prevail, unless the Client provides proof to the contrary.
- 9.9 The Client is not entitled to suspend any payment or to settle amounts due.

10 Fixed Fee

- 10.1 If Parties agree to a Fixed Fee, this Fixed Fee is based on a number of assumptions as set forth by Triple A in its quotation, project-initiation document or other correspondence provided prior to the provision of services, including, though not limited to, the assumption that certain required data and other input from the Client are supplied timely and completely.
- 10.2 Parties acknowledge that these assumptions constitute the basis of the Fixed Fee. Triple A may amend the amount of the Fixed Fee if the assumptions turn out not to be in accordance with the reality. In such case, Triple A will send the Client a written proposal for an alteration of the Fixed Fee, with a motivation for the applicable assumption.
- 10.3 Unless Parties expressly agree otherwise in the context of an RFC, changes made on the basis of an RFC are not included in the Fixed Fee. The compensation for this will be agreed and billed separately.

11 Performance and Liability

- 11.1 The Services are carried out by Triple A, or by the Consultant, by order of and at the expense and risk of the Client. Triple A and its Consultant are never liable for (not achieving) result commitments which are applied internally at a Client.
- 11.2 In principle, Triple A is only subject to an obligation of best effort in the performance of the Assignment. If an Assignment sets a clear result or results to be achieved, Triple A will deliver such results in the form and in the manner as specified in the Order Confirmation. If the Client

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does not claim otherwise, within 1 month after delivery of the aforementioned results, it is assumed that the results have been delivered correctly.

- 11.3 Triple A's liability for the incorrect or incomplete carrying out of activities or for not or incompletely delivering results, is limited to the repairing, restoring, delivering, or correcting of the activities or results.
- 11.4 Without prejudice to the provisions of article 11.3, any liability of Triple A is capped at EUR 1,000,000 per calendar year, on the understanding that Triple A's liability is in each case limited per event to (i) the amount that Triple A invoiced to the customer (excluding VAT) in the 12 months preceding the event on which Triple A's liability is based; or, if lower, (ii) EUR 500,000. For the purposes of this article, a interrelated series of events is considered to be one and the same event.
- 11.5 Triple A is never liable for loss of turnover or profit, loss of contracts or loss of goodwill, reputational damage, lost savings or business damage, (additional) costs or for any other form of indirect or consequential or pure financial loss.
- 11.6 In no event shall Triple A be liable if the Client, or a third party deployed by the Client, applies changes to the results.
- 11.7 No exclusion or limitation of contractual liability applies to damages resulting from intent or gross negligence on the part of a Party or its managerial subordinates.
- 11.8 Parties hereby exclude any extra-contractual liability arising from, or in relation to, the formation, performance, or termination of the Services and/or Contract, its directors, employees, shareholders, and direct or indirect agents. No exclusion or limitation of extra-contractual liability applies for damages as a result of a violation of physical or psychological integrity or cause by intent.
- 11.9 All rights to claims of the Client against Triple A expire 12 months after the day on which the Client became aware or could reasonably have become aware of the existence of such right(s) to claim, and at the latest 12 months after the end of the Assignment.

12 Commissioning principles & practices

- 12.1 The Client will perform (its part of) the Contract with due care and decency towards both Triple A and the Consultant.
- 12.2 The Client is obliged to provide Triple A with all requested and relevant information in a timely manner. Triple A may rely on the information provided by the Client to be accurate and complete. The Client understands that failure to comply with these obligations will have consequences for Triple A's performance of the Contract.

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- 12.3 In case the activities are performed at the Client's location, the Client guarantees that;
- The location, i.e. workplace (in the widest sense of the term) at the Client, where the activities are conducted and all tools which are reasonably required and have been made available by the Client are at least compliant with the safety standards pursuant to the Well-being Act of 4 August 1996 (Welzijnswet van 4 augustus 1996), its implementing decrees and the provisions of the General Regulations on Labor Protection (Algemeen Reglement op de Arbeidsbescherming).
 - All tools which are reasonably required to carry out the activities, such as IT-tools and possibly an access card will be provided to the Consultant free of charge.

13 Non-disclosure

- 13.1 Each of the Parties commits itself to total confidentiality with regard to all information which they have received (written and/or verbal) directly or indirectly in the context of the Contract and of which it knows or reasonably should know to be confidential information. The information may not be used differently than for the purpose the information was provided for.
- 13.2 Both Parties make sure that this confidential information is not disclosed in any manner to third parties, unless, and in such case to the extent that, the provision of this information to a third party is necessary for the purpose of the Assignment or if a legal obligation to this effect pertains.
- 13.3 Triple A undertakes that the Consultant is bound by a confidentiality obligation that is equivalent to the confidentiality obligation as laid down above in articles 13.1 and 13.2.
- 13.4 Triple A reserves the right to use the know-how gained through the provision of the Services for other purposes, subject to the provisions of this article 13.
- 13.5 The confidentiality obligation applies during the effective time of the Contract and shall survive for a 2-year period following its termination.

14 Force majeure

- 14.1 Parties are (temporarily) not held to perform their obligations arising from the Contract if this is (temporarily) rendered impossible, or if performance can no longer reasonably be expected, as a result of force majeure. For the avoidance of doubt: if and to the extent Triple A or the Consultant is unable to carry out the activities due to force majeure, the Client will not be obliged to pay the Fee. The Client remains bound to pay the Services already provided by Triple A.
- 14.2 Force majeure is a situation in which one of the Parties cannot comply with one or more obligations from the Contract as the result of an event which, by standards of reasonableness and fairness, lies outside its sphere of influence. The term force majeure on the part of Triple A comprises in any case, though is not limited to: non-performance of supplier(s) or other third

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parties that Triple A relies on for the performance of the Services, strikes and absenteeism by staff.

- 14.3 In case of termination due to force majeure, as arranged for in article 8.3.d of these GTC, the Parties do not owe each other any compensation for damage.

15 Retention of title

- 15.1 All materials supplied by Triple A, including designs, sketches, drawings, films, software, (electronic) files etc., remain the property of Triple A until the Client has fulfilled all obligations under the Assignment.
- 15.2 The Client is not authorised to pledge the materials subject to retention of title, nor to encumber them in any way.
- 15.3 If any third party seizes materials delivered under retention of title, or wish to establish or enforce rights thereon, the Client is obliged to immediately inform Triple A.
- 15.4 In the event that Triple A wishes to exercise its property rights as referred to in this article, the Client now gives unconditional and irrevocable permission to Triple A or third parties to be designated by it to enter all those places where Triple A's materials are located and take the materials (back).

16 Intellectual property

- 16.1 All rights of intellectual property on software, devices, or other material such as analysis, tools, (calculation) models, designs, reports, quotations, as well as preparatory material thereof developed by Triple A independently or developed in the context of the Assignment ("**Triple A IP**"), lie exclusively with Triple A, their licensors and/or their suppliers. The Client solely obtains the non-exclusive right to the use of Triple A IP as agreed in an Order Confirmation or necessary in the context of the Assignment. Without the explicit consent of Triple A, Triple A IP may in no manner be multiplied, transferred, given for perusal or in sub-license to third parties and/or be used in violation of any other intellectual property right.
- 16.2 If the Client is in violation of what is stipulated in section 1 of this article, the Client owes Triple A an immediately payable penalty of the amount of EUR 50,000 per violation and EUR 5,000 per day that the violation continues. This does not affect the right of Triple A to demand full legal damages from the Client.

17 Data Protection

- 17.1 Parties declare that during the performance of the Contract they will act with due regard for all applicable legislation and regulations in the field of the protection of personal data, especially

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the General Data Protection Regulation (“**GDPR**”). Parties can both be considered data controller with regard to the processing of personal data for their own purposes. The Client indemnifies Triple A against damage which Triple A incurs due to non-compliance with said legislation and regulations.

- 17.2 The Client will not request from or send to Triple A any personal data, which are not required for the Services.
- 17.3 If the Services involve the processing of personal data, whereby Triple A processes the personal data on behalf of or for the benefit of the Client - as a ‘(sub) processor’ - the Parties will enter into a data processor agreement in conformity with the GDPR.

18 Audits

- 18.1 The Client has the right under condition of providing prior notice a reasonable period in advance, to carry out an audit at Triple A. The Client thereby gains access to those documents and locations reasonably necessary for the relevant audit. Audits take place no more than once per calendar year, during the office hours which are customarily applied at Triple A.
- 18.2 The costs for conducting the audit are borne by the Client.
- 18.3 If any non-performance of the Contract by Triple A is revealed by the audit, this does not mean that Triple A is in default. Parties will enter into mutual consultation about the findings of the audit and the remediation of any non-performance.
- 18.4 If Triple A is already in the possession of a certificate, statement, audit report or other document that can be used to demonstrate its compliance with the obligations on which the Client intends carry out an audit, Triple A will provide a copy of the aforementioned document at the Client’s first request, to demonstrate its compliance.

19 Applicable law and competent court

- 19.1 The Contract is exclusively governed by and constructed in accordance with the laws of Belgium.
- 19.2 In the event of disputes each Party is free to seek out the competent court if it proves impossible to reach an agreement by way of prior consultation. The courts of Brussels have exclusive jurisdiction to hear these disputes.

20 Final provisions

- 20.1 If one or more provisions of these GTC are void, annulable, or unenforceable, this does not affect the other provisions of these GTC, Order Confirmation or other agreement which governs the performance by Triple A and its Client. The provision which is not legally valid or which is not

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legally enforceable will be replaced by a provision which is as much as possible in conformity with the original intent of the Parties.

- 20.2 Triple A has the right to amend these GTC, so that the new version (also) applies to any current Contract. If Triple A wishes to make use of this right, it will inform the Client of the intended amendments in writing as quickly as possible. The Client is assumed to have accepted all amendments to the GTC if, within 1 month of being notified by Triple A, it has not made its objections known to Triple A in writing.