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## GENERAL TERMS AND CONDITIONS FOR LISTBROKING ADDRESSES

### I. GENERAL

1. All tenders, bids, offers, contracts and the performance thereof are governed by the present conditions. Stipulations deviating from these conditions should be expressly agreed upon in writing.
2. By "the other party" is meant, in these conditions: "the client/(principal)", namely any legal or natural person who (or which) has concluded, or intends to conclude, a contract with Management Consulting Listbroking Services n.v. (MCLS) in connection with the hire of one or more mailing lists and besides this company, its agent(s), authorized representative(s), successor(s) in title and heirs."
3. By "the list owner" is meant, in these conditions: "any legal or natural person who (or which) is the owner or the party entitled, as the case may be, of the mailing list hired out by MCLS."
4. The own conditions used by the other party remain unaffected insofar as notice is given of them in advance and they are not in conflict with the present conditions. In that case the present conditions will prevail at all times, even when precedence is stipulated to the contrary.

### II. TENDERS, BIDS AND OFFERS

5. All tenders, bids and offers by MCLS, in any shape of form, are without engagement. Prices hold good for 30 days subject to the list owner's approval.
6. The mailing of offers and/or (other) documentation does not commit MCLS to book an order or assignment. Non-booking is brought by MCLS to the notice of the other party as soon as possible, but in any case within 10 working days after receiving word from the list owner.
7. The prices given in the price lists of MCLS only hold good for as long as no new price list has appeared or interim increase has come into force.
8. MCLS reserves the right to deliver or work on a C.O.D. basis, to demand prepayment or to turn down flat the offer of assignments or orders.

### III. CONTRACT

9. Subject to the provisions set out below, a contract is first concluded, in such a case, after MCLS has accepted an assignment in writing or otherwise or, alternatively, has confirmed in which case the date of confirmation is the deciding factor. The confirmation of the assignment is deemed to reflect the substance of the contract, correctly and in its entirety, unless the other party has protested against it, in writing, within 5 working days.
10. Any subsequent additional arrangements or alterations only bind MCLS if these are confirmed in writing by MCLS, unless such a thing cannot reasonably be required of MCLS.
11. For transactions for which, regarding their nature and size, no confirmation of the offer, quotation or assignment is sent, the invoice is deemed to reflect the substance of the contract, correctly and in its entirety, barring a complaint within 5 working days.
12. Every contract is concluded by MCLS on the suspensive condition that the other party - at the sole discretion of MCLS - appears to be creditworthy enough for the financial fulfilment of the contract. MCLS is entitled during or after conclusion of the contract, before putting in any (more) hours, from the other party to require security that both the payment and the other obligations will be fulfilled.
13. MCLS is entitled, if necessary or considered desirable, for a proper execution of the assignment entrusted to it and after consulting with the other party, to call in others during performance of the contract, the costs of which shall be passed on to the other party in accordance with the quotations that were given.

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#### IV. PRICES

14. Unless otherwise stated, the quoted prices are exclusive of VAT, exclusive of import duties, other taxes and duties and are stated in the local currency.
15. Should one or more of the cost elements increase, MCLS is entitled to increase the order price mutatis mutandis; all this in compliance with the existing relevant statutory provisions, if any, on the understanding that already known future price rises shall be mentioned on the order confirmation.
16. Misprints in price lists, brochures and advertisements cannot be invoked as a defence against MCLS.

#### V. DELIVERY AND HANDOVER

17. The estimate of the delivery period is always made approximately and under reserve unless expressly stated to the contrary in the offer. Unless otherwise agreed, delivery is made to the other party's home/business address. Costs, incurred through misdirection or aberrant addressing, fall upon the other party.
18. The other party is duty-bound to immediately check the consigned goods or the outer package, as the case may be, on delivery, but in any event within 5 working days, for any deficiencies and/or signs of damage or to undertake this inspection after notification from MCLS that the goods are at the disposal of the other party.
19. The other party is required to have any deficiencies and/or signs of damage to the consigned goods and/or the outer package apparent on delivery, shown on the delivery note, the invoice and/or the carriage documents while in case of (transport) damage the package should be kept for reference. In default thereof, the other party is held to have passed, as in order, that which has been delivered. In that case, any complaints on that score are no longer handled.
20. If the other party cancels the order it shall still owe the entire amount of the bill. If the other party doesn't use the addresses for reasons not attributable to MCLS or the list owner, the other party shall still owe the invoice amount.
21. MCLS is entitled to make an extra charge for durable packaging materials.

#### VI. HIRING OUT OF MAILING LISTS

22. The other party acknowledges that it has been advised of the fact that hired-out mailing lists are not always spot-on as regards the correctness or completeness of the data listed therein. The other party accepts a margin of error of 5 % in the actual net number used (after deleting duplicate entries, etc.). Only if the other party can prove a wider margin of error on the basis of the postal returns will it be reimbursed by a credit entry equivalent to the corresponding portion of the hire charge and provided that the postal returns concerned are returned to MCLS within 4 (four) months after the hiring-out. The reimbursement of other costs for the other party such as postage, returned goods, customer service or the like is, in that respect, out of the question.
23. If the number of postal returns, however, amounts to more than 10 % of the actual net number used, all returns above the 5% ceiling will be refunded to the hirer at the rate of three times the hire charge per address, but limited to no more than the initial invoice amount.
24. The other party acknowledges that it has been advised of the fact that reference addresses, for control purposes, do occur in hired-out lists; this is limited to no more than 1 % of the hired-out numbers or, nominally, a hundred addresses. These addresses are not included in the calculation for the margin of error of the preceding article.
25. The hired-out mailing lists may be used by the other party only once. Deletion of duplicate entries isn't, in that respect, held to be a use, on condition that it's a case of deleting double entries w.r.t. an in-house list of the other party. Elements and/or characteristics of the hired-out data may not be quoted by the other party in its own lists or given to third parties. Nor is the other party allowed to enhance its own data with the hired-out data.

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26. Magnetic tapes, floppy disks or other electronic data carriers provided by MCLS should be returned by the other party no later than one month after the dispatch date of the mailshot for which they were hired out, at the list owner's choice, to the list owner or be rendered unusable. MCLS is entitled, at the other party's expense, to demand a certificate which shows them to have been rendered unusable.
27. The other party obtains, through the hiring of the mailing list, a non-exclusive and non-transferable right of use to use the list once only for the addressing of a mailshot or postal item, submitted in advance to MCLS. The other party is, at no time, entitled, wholly or partially, to copy, distribute, part with or pass on the list. Only the computerized names and addresses of consumers or companies who (or which), within the context of the mailshot sent by the other party, have responded positively by placing an order or by requesting a catalogue may be included by the other party as its own addresses on its list.
28. The other party shall, with regard to the use of the list, conform to all the relevant legal and deontological standards and it indemnifies MCLS and the list owner for that. It is not authorized - unless legal provisions oblige it to, to disclose MCLS' name or that of the owner of the list.
29. The other party shall not use the list owner's name for its own promotional mailshots or purposes, except where the list owner gives its express and written approval.
30. All goods supplied for hire shall, at all times, remain the property of the list owner.
31. Failing compliance with the above provisions, the other party shall owe, towards MCLS, *ipso jure* and without giving notice, an immediately collectable indemnification. The amount of this indemnification is fixed at a flat rate of 25 times the hire charge of the list and does not prejudice MCLS' right to claim a higher indemnification when there are grounds for doing so. Because of this, the further rights, if any, of the list owner also remain unaffected.

#### VII. TRANSPORT/LIABILITY

32. The mode of transport and shipment, the method of packaging and the like - if no specific instructions are given by the other party to MCLS - are stipulated by the list owner in accordance with good commercial practice. Carriage of goods is at the other party's own expense and risk.
33. If the goods or services to be supplied, after being presented by the other party, are not accepted or are used on or before the planned date of dispatch of the mailing list, MCLS is entitled to act, as it thinks fit, namely:
  - a) as if the contract had been cancelled by the other party.
  - b) or to demand performance of contract and to make a charge for other damage, if any.

#### VIII. FORCE MAJEURE

34. By force majeure is meant: any circumstance beyond the parties' control or, as the case may be, any unforeseen circumstance as a result of which performance of the contract by the other party can, in reasonableness, no longer be expected.
35. If, in MCLS' opinion, the force majeure will be a temporary one, MCLS is entitled to suspend the execution of the contract until such a time when the circumstance, which is causing the force majeure, no longer occurs.
36. If, in MCLS' opinion, the situation beyond its control is of a permanent nature, the parties may enter into an arrangement concerning the dissolution of the contract and the consequences this entails.
37. MCLS is entitled to demand payment for work done, in execution of the contract concerned, that was accomplished *before* the circumstance which caused the force majeure emerged.
38. The party which believes that it is (or shortly will be) in a situation beyond its control, should notify the other party thereof forthwith.

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#### IX. LIABILITY

39. MCLS disclaims any liability, insofar as that doesn't result from actual fault or gross negligence. MCLS' liability shall, in any case, never exceed the total amount in commission on the order or assignment in question.
40. Except for the universal legal rules of public order and good faith, MCLS is not obliged to make good damage of any kind, directly or indirectly, including - but not limited to - trading losses in respect of movables or immovables, or sustained by individuals, both by the other party and by third parties, as well as lost profits or consequential losses.
41. In any case, MCLS is not liable for damage, which arose or was caused by use of the consigned goods or through the unsuitability thereof for the purpose for which the other party bought them. If services are supplied, MCLS' liability shall be limited to the total commission charged up to that point in time.
42. Furthermore, MCLS accepts no liability whatsoever for the correctness of the addresses it supplies, subject to that laid down under articles 22 and 23.
43. By simply taking delivery on behalf of the other party or for its own account, of the goods or services supplied, MCLS is (automatically) indemnified against any claims from the other party and/or third parties until payment of damages regardless of how the damage arose.

#### X. COMPLAINTS & WARRANTY

44. MCLS only deals with any complaints if they have reached it directly, in writing, within 1 month after delivery of the piece of work in question, stating, exactly, the nature and the foundation of the complaints. Likewise, complaints about invoices should be lodged in writing, within 5 working days after receipt of the invoice.
45. After this period has expired, the other party is held to have passed, as in order, the consigned goods or, alternatively, the invoice. In that case, complaints are not dealt with any more.
46. If the complaint is found to be justified, MCLS is, at its choice and no one else's, still obliged to perform that piece of work or to credit the other party's account to the amount of the unfulfilled portion, without the other party being able to enforce more rights.
47. Only if, and insofar as, the complaint is found to be justified, in writing, by MCLS shall this exempt the other party from its obligation to pay with regard to the disputed portion until the moment the complaint has been dealt with.
48. The consigned goods may only be returned after prior written permission from MCLS, subject to terms that it shall stipulate.
49. Should it relate to the giving of advice, MCLS guarantees that its recommendations shall be drawn up in accordance with the applicable law(s) on that score. Further warranties are excluded. As to MCLS' recommendations on the use (and the results, if any, of that use) those recommendations will always held to be drawn up based on the data furnished by the other party, MCLS merely guaranteeing that these recommendations are drawn up competently but with no guarantee as to the result.

#### XI. TERMS OF PAYMENT

50. Unless otherwise agreed in writing, payment should be made in cash on delivery, with no discount, by deposit or transfer into a bank or giro account number specified by MCLS within 30 days from the billing date. The due date specified on MCLS' bank/giro statements is determinant and is, therefore, held to be the due date that counts.
51. All payments made by the other party serve, primarily, to settle any interest and collection charges incurred by MCLS and after that, to settle the oldest outstanding invoices.
52. In the event that the other party:
  - a) is declared bankrupt, assigns an estate, files a petition for a moratorium or for deferment of payment, or if his properties are seized, wholly or in part.

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- b) should die or be placed under tutelage.
- c) fails to fulfil any obligation that rests with it/(or him) by operation of the law or under these conditions.
- d) fails to settle an invoice or a part thereof within the period specified for that.
- e) goes on strike or transfers his company's assets or a large chunk thereof, including, among other things, the bringing of his firm's capital into an existing company or one yet to be formed.

the other party is entitled, should just one of the situations mentioned above arise, to consider the contract dissolved without any judicial intervention being required, or to demand payment, in full, of any sum owed, at that point in time, by the other party on account of the services rendered by MCLS, at once and without any warning or notice of default being necessary, all this without prejudicing his(or its) right to compensation of costs, instances of damage and interest.

- 53. If payment isn't made within the time-limit laid down in article 50, the other party will be in default by operation of the law and shall, as from the billing date, owe interest at 1 % per (part of a) month on the sum still outstanding, with a minimum of 50 euros.
- 54. All court and extrajudicial costs to be incurred must be borne by the other party. The extrajudicial collection costs amount to 15 % of the sum owed by the other party, inclusive of the aforesaid interest, this with a minimum of 500 euros.

## XII.APPLICABLE LAW

- 55. No law other than Belgian law shall apply to all tenders, bids, offers, contracts and the performance thereof.
- 56. **The Dutch version of these terms and conditions is binding. Other language versions are supplied for your information only.**
- 57. The Uniform Laws on the International Sale of Goods (ULIS) and on the Formation of Contracts for the International Sale of Goods (ULFIS) are expressly excluded.
- 58. Any disputes - including those regarded as such by only one party - arising from or related to the contract which these conditions apply to or the conditions concerned themselves as well as its interpretation or execution, both of a factual and legal nature, shall be adjudged by the competent court within whose jurisdiction MCLS has its registered office.

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## GENERAL TERMS AND CONDITIONS FOR LISTBROKING INSERTS

### I. GENERAL

1. All tenders, bids, offers, contracts and the performance thereof are governed by the present conditions. Stipulations deviating from these conditions should be expressly agreed upon in writing.
2. By “the other party” is meant, in these conditions: “the client/(principal)”, namely any legal or natural person who (or which) has concluded, or intends to conclude, a contract with Management Consulting Listbroking Services n.v. (MCLS) and besides these, its agent(s), authorized representative(s), successor(s) in title and heirs.” By “the commissioner” is meant, in these conditions: “any third party at which(or who) inserts are to be inserted” and where “the inserts” are “the mailshots or postal items to be inserted”.
3. The own conditions used by the other party remain unaffected insofar as notice is given of them in advance and they are not in conflict with the present conditions. In that case the present conditions will prevail at all times, even when precedence is stipulated to the contrary.

### II. TENDERS, BIDS AND OFFERS

4. All tenders, bids and offers by MCLS, in any shape of form, are without engagement. Prices hold good for 30 days subject to the commissioner’s approval.
5. The mailing of offers and/or (other) documentation does not commit MCLS to book an order or assignment. Non-booking is brought by MCLS to the notice of the other party as soon as possible, but in any case within 10 working days after receiving word from the commissioner.
6. The prices given in the price lists of MCLS only hold good for as long as no new price list has appeared or interim increase has come into force.
7. MCLS reserves the right to deliver or work on a C.O.D. basis, to demand prepayment or to turn down flat the offer of assignments or orders.

### III. CONTRACT

8. Subject to the provisions set out below, a contract is first concluded, in such a case, after MCLS has accepted an assignment in writing or otherwise or, alternatively, has confirmed in which case the date of confirmation is the deciding factor. The confirmation of the assignment is deemed to reflect the substance of the contract, correctly and in its entirety, unless the other party has protested against it, in writing, within 5 working days.
9. Any subsequent additional arrangements or alterations only bind MCLS if these are confirmed in writing by MCLS, unless such a thing cannot reasonably be required of MCLS.
10. For transactions for which, regarding their nature and size, no confirmation of the offer, quotation or assignment is sent, the invoice is deemed to reflect the substance of the contract, correctly and in its entirety, barring a complaint within 5 working days.
11. Every contract is concluded by MCLS on the suspensive condition that the other party - at the sole discretion of MCLS - appears to be creditworthy enough for the financial fulfilment of the contract. MCLS is entitled during or after conclusion of the contract, before putting in any (more) hours, from the other party to require security that both the payment and the other obligations will be fulfilled.
12. MCLS is entitled, if necessary or considered desirable, for a proper execution of the assignment entrusted to it and after consulting with the other party, to call in others during performance of the contract, the costs of which shall be passed on to the other party in accordance with the quotations that were given.

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#### IV. PRICES

13. Unless otherwise stated, the quoted prices are exclusive of VAT, exclusive of import duties, other taxes and duties and are stated in the local currency.
14. Should one or more of the cost elements increase, MCLS is entitled to increase the order price mutatis mutandis; all this in compliance with the existing relevant statutory provisions, if any, on the understanding that already known future price rises shall be mentioned on the order confirmation.
15. Misprints in price lists, brochures and advertisements cannot be invoked as a defence against MCLS.

#### V. DELIVERY AND EXECUTION

16. The estimate of the delivery period is always made approximately and under reserve unless expressly stated to the contrary in the offer. Unless otherwise agreed, delivery is made to the commissioner's home/business address. Costs, incurred through misdirection or aberrant addressing, fall upon the other party.
17. MCLS notifies the other party of the commissioner's relevant prevailing guidelines. Within these guidelines the commissioner lays down the method, nature and shape of the inserts. The commissioner's records are determinant for proof of performance of the assignment and for dispatch of the inserts.
18. The other party is to notify MCLS, in writing, of any deficiencies and/or signs of damage to the inserts within 5 working days after finding these. In default thereof, the other party is held to have passed, as in order, that which has been delivered. In that case, any complaints on that score are no longer handled.
19. The other party ensures that the mailshots or postal items to be inserted are in accordance with all statutory requirements and self-regulation requirements for the area or country in which they are to be distributed and/or diffused. The other party indemnifies MCLS and the commissioner against any liability on that score.
20. At MCLS' first request, the other party shall furnish MCLS with clear sample representations of every version of the inserts. In case of default in doing so, the assignment will be deemed to be cancelled by the other party.
21. If the data or inserts to be supplied by the other party are delivered late, MCLS is entitled to cancel the assignment (while passing on the costs it has already incurred, plus 50 %) or to pass on to the other party the costs caused by the delay.
22. MCLS accepts no liability for the contents or origin of other inserts which are edited by the commissioner or sent as a flier together with the inserts of the other party.

#### VI. TRANSPORT/LIABILITY OF INSERTS

23. All tasks assigned to MCLS, the commissioner or third parties in respect of transport and shipment, packaging, storage, handling and the like are performed at the other party's own expense and risk and - if assigned to MCLS - are stipulated by it in accordance with good commercial practice.

#### VII. FORCE MAJEURE

24. By force majeure is meant: any circumstance beyond the parties' control or, as the case may be, any unforeseen circumstance as a result of which performance of the contract can, in reasonableness, no longer be expected.
25. If, in MCLS' opinion, the force majeure will be a temporary one, MCLS is entitled to suspend the execution of the contract until such a time when the circumstance, which produces the force majeure, no longer occurs.
26. If, in MCLS' opinion, the situation beyond its control is of a permanent nature, the parties may enter into an arrangement concerning the dissolution of the contract and the consequences this entails.
27. MCLS is entitled to demand payment for work done, in execution of the contract concerned, that was accomplished *before* the circumstance which caused the force majeure emerged.

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28. The party which believes that it is (or shortly will be) in a situation beyond its control, should notify the other party thereof forthwith.

#### VIII.LIABILITY

29. MCLS disclaims any liability, insofar as that doesn't result from actual fault or gross negligence by it or its appointed officers. MCLS is regarded, in this context, as the broker between the other party and the commissioner. MCLS' liability shall, in any case, never exceed the amount in commission, calculated by MCLS, on the order or assignment in question.
30. Except for the universal legal rules of public order and good faith, MCLS is not obliged to make good damage of any kind, directly or indirectly, including - but not limited to - trading losses in respect of movables or immovables, or sustained by individuals, both by the other party and by third parties, as well as lost profits or consequential losses.
31. If the other party fails to fulfil its obligations towards MCLS or the commissioner in time or not at all it is, towards MCLS or the commissioner, as the case may be, liable for the damage caused because of that.
32. Should the other party cancel the order it shall still owe the entire amount of the bill.

#### IX.COMPLAINTS & WARRANTY

33. MCLS only deals with any complaints concerning performance of the assignment if they have reached it directly, in writing, within 1 month after the invoicing for (the piece of) work (in question), stating, exactly, the nature and the foundation of the complaints. Likewise, complaints about invoices should be lodged in writing, within 5 working days after receipt of the invoice.
34. After this period has expired, the other party is held to have passed, as in order, the work done and the corresponding invoice. Subsequent complaints are not dealt with any more.
35. If the complaint is found to be justified, MCLS is, at its choice, only obliged to perform that piece of work or to credit the other party's account to the amount of the unfulfilled portion, without the other party being able to enforce more rights.
36. Only if, and insofar as, the complaint is found to be justified, in writing, by MCLS shall this exempt the other party from its obligation to pay with regard to the disputed portion until the moment the complaint has been dealt with.
37. MCLS guarantees that its recommendations are drawn up in accordance with the applicable law(s) on that score. Further warranties are excluded. As to MCLS' recommendations on the use of inserts (and the results, if any, of that use) those recommendations will always held to be drawn up based on the data furnished by the other party and the commissioner, MCLS merely guaranteeing that its recommendations are drawn up competently but with no guarantee as to the result.

#### X.TERMS OF PAYMENT

38. Unless otherwise agreed in writing, payment should be made in cash, with no discount, by deposit or transfer into a bank or giro account number specified by MCLS within 30 days from the billing date.  
The due date specified on MCLS' bank/giro statements is determinant and is, therefore, held to be the due date that counts.
39. All payments made by the other party serve, primarily, to settle any interest and collection charges incurred by MCLS and after that, to settle the oldest outstanding invoices.  
In the event that the other party:
- a) is declared bankrupt, assigns an estate, files a petition for a moratorium or for deferment of payment, or if his properties are seized, wholly or in part.

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  - d) fails to settle an invoice or a part thereof within the period specified for that.
  - e) goes on strike or transfers his company's assets or a large chunk thereof, including, among other things, the bringing of his firm's capital into an existing company or one yet to be formed, the other party is entitled, should just one of the situations mentioned above arise, to consider the contract dissolved without any judicial intervention being required, or to demand payment, in full, of any sum owed, at that point in time, by the other party, at once and without any warning or notice of default being necessary, all this without prejudicing his(or its) right to compensation of costs, instances of damage and interest.
40. If payment isn't made within the time-limit laid down in article 39, the other party will be in default by operation of the law and shall, as from the billing date, owe interest at 1 % per (part of a) month on the sum still outstanding, with a minimum of 50 euros.
41. All court and extrajudicial costs to be incurred must be borne by the other party. The extrajudicial collection costs amount to 15 % of the sum owed by the other party, inclusive of the aforesaid interest, this with a minimum of 500 euros.

#### XI.APPLICABLE LAW

42. No law other than Belgian law shall apply to all tenders, bids, offers, contracts and the performance thereof.
43. **The Dutch version of these terms and conditions is binding. Other language versions are supplied for your information only.**
44. The Uniform Laws on the International Sale of Goods (ULIS) and on the Formation of Contracts for the International Sale of Goods (ULFIS) are expressly excluded.
45. Any disputes - including those regarded as such by only one party - arising from or related to the contract which these conditions apply to or the conditions concerned themselves as well as its interpretation or execution, both of a factual and legal nature, shall be adjudged by the competent court within whose jurisdiction MCLS has its registered office.

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