

# Gernandt & Danielsson

General terms and conditions for Gernandt & Danielsson – for clients not domiciled in Sweden (version 2012:1)

## 1 Application

**1.1** These general terms and conditions apply, in addition to the code of conduct established by the Swedish Bar Association (the “**Code of Conduct**”), to advice and services provided by Gernandt & Danielsson Advokatbyrå KB (“**G&D**” or “**we**”) in any engagement (“**engagement**” or “**matter**”).

**1.2** Any amendments to, or deviations from, these general terms and conditions must be agreed in writing.

**1.3** These general terms and conditions shall apply to all aspects of a matter, irrespective of whether the matter involves several parts, or we are acting for several entities or individuals or whether separate invoices are issued.

**1.4** Your contractual relationship in the engagement is solely with G&D and not with any other legal entity or individual associated with G&D. Except as provided under mandatory law, no other entity or individual than G&D shall have any liability for advice or services provided by G&D (including shareholders, board directors, managing partners, employees or consultants). Irrespective of the foregoing, any legal entity or individual associated with G&D (e.g. a shareholder, a director, a managing partner, an employee or a consultant) shall have the benefit of these general terms and conditions and any engagement letter.

## 2 Client identification, etc.

**2.1** According to the Swedish Act on Measures Against Money Laundering and Financing of Terrorism (“**AML**”), we are required to investigate the identity of our clients and their ownership structure as well as to request information about the nature and objective of the matter in which we are engaged. As a rule, such information must be provided to us before our work may commence. If adequate information and documentation is not provided to us, we may decline or withdraw from the engagement. Consequently, we may ask you to provide us, without delay, identification documents and detailed information about your ownership structure and the matter in question. In addition, we may be required by law to verify such information through independent external sources, e.g. data bases. We are required by law to retain all information and documentation obtained in connection with the kind of measures described above.

**2.2** We are required under AML to disclose suspicions of money laundering or terrorism

financing to the police authorities. We are prevented under AML to inform you that we have suspicions or that we have made or are contemplating to make disclosures to the police authorities. In case of any suspicions of money laundering or terrorism financing, we are required by the Code of Conduct to decline or withdraw from the engagement.

**2.3** We may be required by law to provide information to the tax authorities on the VAT number of our clients and the invoiced amounts. By engaging G&D you are deemed to have consented to that we fulfill such reporting obligation. If you would oppose such reporting, we may, according to the Code of Conduct and these terms and conditions, decline or withdraw from the engagement.

**2.4** We cannot be held liable for any loss or damage directly or indirectly suffered by you as a consequence of our compliance with the obligations set out in clauses 2.1-2.3 or that we pursuant to those clauses have declined or withdrawn from an engagement because we have been prevented to meet our obligations.

## 3 Our services

**3.1** The content and scope of our engagement may be set out in a written or oral engagement confirmation. The nature and scope of the engagement can, however, be revised during the course of the engagement, depending on your instructions or the conditions that apply to the matter from time to time.

**3.2** One of G&D’s partners will be main responsible for our services in the particular engagement. The responsible partner can be assisted by one or several other lawyers. The composition of the team of lawyers working on the matter may be changed during the course of the matter.

**3.3** Our services and advice are tailored only to the circumstances, facts and instructions presented to us in the particular engagement. Accordingly, you may not rely on our services or advice in any other matter or for any other purpose than the specific engagement and purpose for which the service or advice was given.

**3.4** We do not provide tax advice, financial advice, accounting advice or advice on the commercial merits of decisions, investments or transactions. Accordingly, we cannot be held liable for tax, financial, accounting or commercial consequences

of the decisions, investments or transactions that you make.

**3.5** Our services include only advice regarding Swedish law. If we, based on our general experience, would express a view on legal issues in another jurisdiction than Sweden, such view does not constitute advice that you may rely on. However, at your request, we would be pleased to assist you in obtaining advice from other advisors in the relevant jurisdiction.

**3.6** If we engage or work together with other advisors (or professionals), any such advisor (or professional) shall be considered to be independent of us. Consequently, we assume no responsibility or liability for advice given or work carried out by other advisors or professionals, for appointing them or recommending them, irrespective of whether they report to you or to us. If you grant us authority to engage on your behalf other advisors (or professionals), such authority includes a right for us to accept limitations of liability invoked by such advisors (or professionals). We assume no responsibility or liability for fees or expenses incurred by other advisors (or professionals).

**3.7** If we, together with one or several other advisors or professionals, would be liable for the same loss or damage suffered by you, our liability for such loss or damage shall be limited to the proportion which our fee bears to the sum of the fees payable to all advisors and professionals (regardless of whether the other advisors or professionals have excluded or limited their liability or would be unable to pay their part of the total claim).

**3.8** If we, together with one or several other advisors or professionals, would be jointly and severally liable to you in relation to the same loss or damage suffered by you and another advisor's or professional's liability to you is more limited than our liability, any liability we might have to you shall be reduced by the amount of the contribution we would have been able to recover from that advisor or professional if its liability to you had not been so limited (and regardless of whether that other advisor or professional would have been able to pay the contribution to us).

## **4 Confidentiality and insider matters**

**4.1** We observe confidentiality in accordance with the Code of Conduct. In certain cases, we may be obliged by law to disclose information. Furthermore, the Code of Conduct may in certain cases allow us to disclose information.

**4.2** When a particular matter has become publicly known, we may in our publicity material and on our website disclose our involvement in the matter and information about the matter that is already in the public domain. If we have reason to believe that you may be concerned about our disclosure of such information, we will seek your permission before such disclosure is made.

**4.3** If the matter in question would involve information that requires an insider list being maintained according to market abuse law of equivalent laws and regulations and you wish us to maintain such list, we expect you to expressly request us to do so.

**4.4** If we have maintained an insider list, a copy of the list may at your request be provided to you as soon as possible, provided that you make such request not later than within five years and one day after the list was prepared or dated. You are required to keep the list confidential and to use it only in order to comply with law.

## **5 Electronic communications**

Unless you request us to communicate in some other manner, our communication with you and other parties involved in a matter will mainly take place through e-mail or the Internet. Electronic communication involves security and confidentiality risks. Furthermore, there is a risk that spam and virus filters, fire walls and other security arrangements reject or filter out legitimate e-mails. Accordingly, you should follow up important e-mails by telephone. Considering the risks involved in electronic communication, we cannot accept any responsibility for such risks.

## **6 Intellectual property rights**

The intellectual property rights in work products that we generate for you vest in us although you have the right to use such work products for the purposes for which they were provided. Unless agreed otherwise, no document or other work product generated by us may be generally circulated or used for marketing purposes.

## **7 Fees and expenses**

**7.1** Our services are charged in accordance with the Code of Conduct. Our fees are normally determined on the basis of a number of factors such as, inter alia, (i) time spent; (ii) the type, complexity and importance of the matter; (iii) time constraints and amount of work required to be performed beyond normal office hours; (iv) the

amounts involved; (v) the knowledge, skills, experience and resources required; (vi) any risks assumed by G&D; and (vii) the result achieved through our work.

**7.2** At your request, we will at the outset of an engagement provide you with an estimate of our fees, and update you on the fees incurred as work progresses. Such estimate is only based on information available to us at the time of the estimate was made and cannot be regarded as a fixed quote.

**7.3** In addition to the fees for our work, we will charge for certain expenses among other things courier and travelling costs, fees of other advisors and professionals, registration fees, registry search fees, facilities for data room purposes, temporary workers, catering, conference calls and extensive document reproduction.

**7.4** Our fees and expenses are exclusive of value added tax, which will be charged where we are required to charge such tax.

## 8 Invoicing and payments

**8.1** Unless otherwise agreed, we will normally invoice you on a monthly basis.

**8.2** In certain cases, we may request an advance payment. Such payment will be used to settle future invoices. The final total amount of our fees and expenses for the engagement may be more or less than the amount of the advance payment.

**8.3** We may in certain cases send issue a preliminary (on account) for our fees. In such cases, the final invoice will set out the total amount from which the amount in the preliminary invoice will be deducted.

**8.4** Each invoice sets out its due date, normally 15 days from the date of the invoice. If an invoice is not paid, interest on the balance owing will be charged at the statutory rate applicable from the due date until receipt of payment.

**8.5** In litigation and arbitration, the losing party can be ordered to pay the costs (including legal fees) of the winning party. It is, however, rare that all the legal expenses that the winning party has incurred will be recoverable from the losing party. Irrespective of whether you should be the winning or losing party you must pay our fees for services rendered and expenses incurred in representing you in litigation or arbitration.

**8.6** If our fees and expenses are to be financed by making use of a legal costs and expenses insurance you must still pay our fees and expenses to the extent they exceed whatever is paid out under the insurance.

**8.7** If you ask us to address an invoice to someone else, we may accommodate your request only if it is evident that the arrangement will not violate any laws, the identity and other circumstances set out in clause 2 have been verified in respect of the addressee and that you, on demand, will promptly pay any amounts which have not been paid by the due date. No client relationship between us and such addressee is assumed.

## 9 Termination of engagements

**9.1** You may terminate our engagement at any time by requesting us to cease acting for you. If you do so, you must still pay our fees for services provided and the expenses incurred by us prior to the date of termination.

**9.2** Law and the Code of Conduct may set out circumstances that allow or require us to decline or withdraw from an engagement. Among other things, this may be the case in the event of inadequate client identification, suspicions of money laundering or terrorism financing, conflict of interest, failure to make payments, failure to supply adequate instructions or when confidence and trust no longer exist between us. If we decide to terminate our engagement, you must still pay our fees for services provided and expenses incurred prior to the date of termination.

**9.3** With regard to conflicts of interest, we cannot as a rule represent a party if there is a conflict of interest with other clients. Therefore, we will conduct a conflicts of interest check before accepting an engagement. Even so, conflicts of interest which we are not aware of at this time may arise and preclude us from representing you in pending or future matters. Should that occur, we seek to be fair to our clients taking into consideration the Code of Conduct. In this respect, it is important that you at the outset of and during the course of our engagement provide us with any information that you believe may be pertinent to establish whether any actual or potential conflict of interest exists.

## 10 Complaints and claims

**10.1** If, for any reason, you are dissatisfied with our services and wish to submit a complaint or claim, you should notify the G&D partner responsible for

the relevant matter as soon as possible after you became aware of the circumstances giving rise to the complaint or claim. No claim may be made later than 365 days after the later of (i) the date the last invoice was issued for the engagement to which the claim refers and (ii) the date the circumstances giving rise to the claim became known to you or could have become known to you after carrying out reasonable investigations.

**10.2** If your claim is based on a claim against you by an authority or other third party, we or our insurers shall be entitled to meet, settle and compromise such claim on your behalf, provided that – taking into consideration the limitations of liability in these general terms and conditions and, if any, the engagement letter – you are indemnified by us. If you meet, settle, compromise or otherwise take any action in relation to such claim without our consent, we will not accept any liability for such claim.

**10.3** If you are reimbursed by us or our insurers in respect of a claim, you shall, as a condition for such reimbursement, transfer the right to recourse against third parties to us or our insurers by way of subrogation or assignment.

## 11 Limitation of liability

**11.1** Our liability for any loss or damage suffered by you as a result of negligence or other breach of contract on our part shall in respect of each engagement be limited to 50 million Swedish kronor, or if our fees in the relevant engagement are less than 1 million Swedish kronor, to 5 million Swedish kronor.

**11.2** Our liability for a loss or damage shall be reduced by any amount which may be obtained by you under any insurance maintained by or for you or under any contract or indemnity to which you are a party or a beneficiary, unless it is contrary to the agreement with such insurance provider or other third party or your rights against such insurance provider or other third party will be prejudiced thereby.

**11.3** We shall not be liable for any loss or damage suffered as a result of the use by you of our work products or advice in any other context or for any other purpose than for which it was given. Except as provided in clause 11.5, we shall not have any liability for a loss or damage suffered by any third party through the use by you of our work products or advice.

**11.4** We shall not be liable for any loss or damage suffered as a result of events beyond our control, which events we reasonably could not have anticipated at the time we accepted the engagement and whose consequences we could not reasonably have avoided or overcome.

**11.5** If we, at your request, agree that a third party may rely on our work products or advice, this will not increase or otherwise affect our liability, and we will only be liable to such third party to the extent we would have been liable to you. Any amount payable to a third party as a result of such liability will reduce our liability to you correspondingly and vice versa. No client relationship with such third party is assumed. The aforesaid applies also if, at your request, we issue certificates, opinions or the like to a third party.

## 12 Professional liability insurance

We maintain professional liability insurance in addition to the Swedish Bar Association's compulsory liability insurance. We are not obliged to disclose the amount of the insurance cover, but we can at your request provide a written opinion from our insurance broker that the cover is in line with market practice.

## 13 Document retention

**13.1** After the conclusion or termination of an engagement, we will keep (or store with a third party) essentially all documents and work products accumulated or generated in a matter, whether on paper or electronically, for a period of time which we deem to be adequate for that particular type of engagement, however under no circumstances for a period of time shorter than that required by law or under the Code of Conduct.

**13.2** Since we are under an obligation to retain essentially all documents and work products accumulated or generated in the matter, we will not be able to meet a request by you to return (without making and keeping a copy) or destroy a document or work product in advance of the expiration of the retention period.

**13.3** Unless otherwise agreed, we are not required to store your original documents. Consequently, at the conclusion or termination of an engagement, we may send all original documents to you. We may keep a copy of such documents.

## 14 Miscellaneous

**14.1** These general terms and conditions may be amended by us from time to time. The current version is published on our website ([www.gda.se](http://www.gda.se)). Amendments will become effective only in relation to matters initiated after the amended version was posted on our website.

**14.2** In case an engagement letter has been sent to you in respect of a particular engagement, the terms in the letter shall prevail if and to the extent there is any inconsistency between these general terms and conditions and the terms set out in such letter.

**14.3** These general terms and conditions are produced in Swedish and in English. For clients domiciled in Sweden, the version in Swedish shall prevail. The version in English shall prevail for all other clients.

## 15 Governing law and dispute resolution

**15.1** These general terms and conditions (including the arbitration clause in 15.2) and, if any, the engagement letter, our engagement, our services and our advice shall be governed by and construed in accordance with substantive Swedish law.

**15.2** Any dispute, controversy or claim arising out of or in connection with these general terms and conditions, any engagement letter, our engagement, our services and our advice shall be finally settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The seat of arbitration shall be Stockholm, Sweden. The language to be used in the arbitral proceedings shall be English unless we and you agree to use Swedish.

**15.3** Arbitral proceedings initiated with reference to clause 15.2 and all information disclosed in the course of such arbitral proceedings, as well as any decision or award that is made or declared during the proceedings, may not, in any form, be disclosed to a third party without the express consent of the other party. A party shall, however, not be prevented from disclosing such information in order to preserve its rights versus the other party or if the party is required to so disclose pursuant to law or other applicable mandatory regulations.

**15.4** Notwithstanding clause 15.2, we shall be entitled to commence proceedings for the payment of any amount due in any court with jurisdiction over you or any of your assets.