

## Article 1 General provisions

The terms used in these General Terms and Conditions shall have the following meanings:

1. Client: the natural person or legal entity who/that has given the Engagement to perform Activities to the Contractor.
2. Contractor: Cappon Tax Consultants B.V. with its registered office in Alblasserdam.
3. Engagement/Agreement: the letter of Engagement, under which the Contractor undertakes to perform particular activities in respect of the Client.
4. Activities: any Activities and works to be performed by the Contractor for the benefit of the Client, for which purpose an assignment has been awarded and accepted by the Contractor, as well as any Activities and works arising from this Engagement to be performed by the Contractor.
5. Employee: a natural person employed by or affiliated with the Contractor, whether or not on the basis of an employment contract.

## Article 2 Applicability

1. These General Terms and Conditions shall apply to all legal relationships between the Contractor and the Client, including but not limited to any offers, quotations, Engagements, legal relationships and agreements, by whatever name, whereby the Contractor undertakes or will undertake to perform Activities for the Client, as well as any Activities arising therefrom.
2. Deviations from and additions to the Engagement and/or these General Terms and Conditions shall only be valid if and in so far as they have been expressly agreed in writing, such as in a (written) agreement or a (detailed) Engagement.
3. Should these General Terms and Conditions and the Engagement contain mutually contradictory conditions, the conditions contained in the Engagement shall apply.
4. The applicability of the Client's general terms and conditions is hereby specifically excluded.
5. Natural persons and legal entities who are involved directly or indirectly in any manner in the services to the Client performed by or on account of the Contractor, whether or not on the basis of an employment contract, may also rely on these General Terms and Conditions.

## Article 3 Term of the Agreement

The Agreement shall be entered into for an indefinite period of time, unless the contents, nature or purpose of the awarded Engagement result in it being entered into for a fixed period of time.

## Article 4 Client's obligations

1. The Client is obliged to provide to the Contractor all data and documents in good time, in the desired format and in the desired manner, which the Contractor deems necessary for it to properly execute the awarded Engagement. The Contractor determines what is to be understood by 'in good time, in the desired format and in the desired manner'.
2. The Client shall ensure that the Contractor is notified without delay of facts and circumstances that may be of importance in connection with the proper execution of the Engagement.
3. In the case of engagements to audit financial statements, the Client shall inform the Contractor of any other information that is of relevance to the execution or completion of the Engagement.
4. The Client shall be responsible for the accuracy, completeness and reliability of data and documents made available to the Contractor, even if they originate via or from third parties, unless the nature of the Engagement gives rise to anything to the contrary.

5. The Contractor shall return the original copies provided by the Client to the Client upon a written request to do so by the latter.
6. The Client shall bear the expense and risk of additional costs and additional hours spent by the Contractor, as well as any other losses or damages on its part, resulting from the Client's failure to provide the documents necessary for the execution of the Engagement, or to fail to do this in good time or in the proper manner.
7. If information, including (but not limited to) tax returns, financial statements, reports, of (and at the instruction of) the Client, is transmitted electronically by the Contractor to third parties, the Client shall be regarded as the party that is signing and sending the information in question.
8. The Contractor shall be entitled to suspend the execution of the Engagement until the time that the Client has fulfilled its obligations stated in paragraphs one, two, three or four.
9. The Client shall indemnify the Contractor against losses resulting from inaccurate or incomplete data and documents.

#### **Article 5 Execution of the Engagement**

1. Notwithstanding the provisions of Articles 7:404, 7:407 paragraph 2, and 7:409 of the Dutch Civil Code, all Engagements shall be exclusively accepted and performed by the Contractor and not by or on account of an individual Employee, even if the Client has expressly or tacitly awarded the Engagement for the purpose of having it performed by a specific Employee or specific Employees.
2. The Contractor shall determine the manner in which and by which individual(s) the Engagement will be executed.
3. The Contractor shall be entitled to arrange for the Activities to be performed by a third party to be designated by the Contractor.
4. The Contractor shall perform the Engagement to the best of its ability while observing the applicable legislation and (professional) regulations. The Contractor cannot guarantee that it shall achieve any intended result.
5. If the Client has given consent to the Contractor to allow third parties to inspect the Client's file, the Contractor is not liable for any losses arising as a result.

#### **Article 6 Legislation and (professional) regulations**

1. The Client shall lend its full cooperation each time in the obligations that arise for the Contractor by virtue of the applicable legislation and (professional) regulations.
2. When supplying and making available personal data to the Contractor, the Client shall comply with the General Data Protection Regulation (GDPR) and other applicable legislation and (professional) regulations relating to personal data protection.
3. When executing the Engagement, the Contractor shall comply with the GDPR and other applicable legislation and (professional) regulations relating to personal data protection and process the obtained personal data solely in accordance with any purpose for which the personal data were obtained.
4. The Contractor shall take appropriate technical and organisational measures to protect personal data from destruction, loss or unauthorised access.
5. The Client consents to the Contractor's use of third parties such as ICT service providers and suppliers of administration tools for the purpose of service provision and the optimisation thereof, and the sharing of personal data with said third parties for this purpose. In accordance

with the provisions of the GDPR, the Contractor shall conclude a processor agreement with the (sub)processors it has contracted.

6. In the event of a data breach, the Contractor shall notify the Client thereof, and endeavour to do this within 48 hours after having discovered this data leak, or as soon as possible after the Contractor was informed of this by its subprocessors. If the Contractor is acting as a processor and the Client as the data controller, the Client shall be responsible for reporting data breaches to the Dutch Data Protection Authority and the individual(s) affected, if applicable. In this regard, the Contractor shall provide the Client with the information that the latter deems reasonably necessary in order to report the incident accurately and in full to the Dutch Data Protection Authority and any affected individual(s), if required. For the purpose of the duty to report data breaches, the Contractor shall forward the report from its subprocessor(s) to the Client. If a data breach has occurred, the Contractor may decide in consultation with the Client that the Contractor will look after the reporting to the Dutch Data Protection Authority and any affected individual(s) on the Client's behalf. After a data breach has been established, and if the Parties are both acting as data controllers, the Parties shall independently report the incident to the Dutch Data Protection Authority if required. Due to the nature of the Engagement and the contextual responsibility for processing resting with the Contractor, it is not always logical for the Contractor to directly inform affected individual(s) of the data breach, if required. Should such cases arise, the Parties shall jointly determine which Party is considered the most logical one to notify the affected individual(s) from the perspective of those individuals.
7. The Client is aware that the Contractor's (possible) obligations include, but are not limited to:
  - reporting transactions to the authorities set up by the government for this purpose that are described in applicable legislation and (professional) regulations and of which it becomes aware during the execution of its Activities, pursuant to said legislation and (professional) regulations
  - reporting fraud in certain situations pursuant to applicable legislation and (professional) regulations
  - investigating the (identity of the) Client pursuant to applicable legislation and (professional) regulations.
  - The Contractor excludes any liability for losses or damage sustained by the Client as a result of the Contractor's compliance with the legislation and (professional) regulations to which it is subject.
  - The Parties shall impose their obligations that exist by virtue of this article upon the third parties that they are to use.

## Article 7 Confidentiality

1. The Contractor shall be obliged to keep data and information provided by or on behalf of the Contractor confidential in respect of third parties that are not involved in the execution of the Engagement. This obligation shall not apply in so far as the Contractor has a statutory or professional duty of disclosure, including the obligations arising from the Dutch Money Laundering and Terrorist Financing (Prevention) Act (Wwft) and other national and international regulations with a similar purpose, or in so far as the Client has released the Contractor of the duty of confidentiality.
2. Paragraph one shall not prevent confidential colleague consultation within the Contractor's organisation in so far as the Contractor deems it necessary for the proper execution of the Engagement or the proper compliance with a statutory or professional duty.

3. The Contractor shall not be entitled to use the information provided to it by the Client for any purpose other than that for which it was obtained. An exception shall be made, however, in the event that the Contractor is acting on its own behalf in disciplinary, civil-law, administrative law or criminal proceedings in which it reasonably deems these documents to be of possible relevance.
4. The Client is not permitted to disclose or otherwise make available to third parties the contents of reports, recommendations, opinions or other communications from the Contractor, whether written or not, that were not compiled or produced for the purpose of providing third parties with the information contained therein, unless the Contractor has provided explicit prior written consent.
5. The Contractor and Client shall impose their obligations existing by virtue of this article upon any third parties they may use.

#### **Article 8 Intellectual property**

1. The Contractor's execution of the Engagement does not constitute the transfer of intellectual property rights resting with the Contractor. All intellectual property rights that are created during or arise from the execution of the Engagement shall belong to the Contractor.
2. The Client is explicitly prohibited from reproducing, disclosing or utilising those products, including (but not limited to) computer programs, system designs, methods, recommendations, (model) contracts, reports, templates, macros or any other intellectual products of the Contractor, all of which in the broadest sense of the term, whether or not with the use of third parties.
3. The Client is not permitted to submit the products stated in paragraph two to third parties without prior written consent from the Contractor, except in order to obtain an expert opinion regarding the Contractor's performance of the Activities. In that case, the Client shall impose its obligations existing by virtue of this article upon any third parties that it uses.

#### **Article 9 Force majeure**

1. In the event that Parties are unable to fulfil their obligations arising from the Engagement or are unable to fulfil them properly or in good time as a result of force majeure in the sense of Article 6:75 of the Dutch Civil Code, those obligations shall be suspended until the time that the Parties are able to comply with them later in the agreed manner.
2. Should the situation referred to in paragraph one arise, the Parties shall be entitled to cancel the Engagement in whole or in part in writing with immediate effect, without creating any entitlement to compensation whatsoever.
3. If the Contractor has already fulfilled some of the agreed obligations when the force majeure situation occurs, the Contractor shall be entitled to charge separately for the Activities performed before the end of the term, and the Client must pay this invoice as if it concerned a separate transaction.

#### **Article 10 Fee**

1. The Client shall be charged for the Activities performed by the Contractor on the basis of time spent and costs incurred, unless the Parties have made express written agreements to the contrary, such as payment of a fixed price.

2. In addition to the fee, the Client shall be charged for expenses incurred by the Contractor and for invoices from third parties used by the Contractor.
3. The Contractor shall be entitled to request an advance payment from the Client.
4. In the event that fees or prices are subject to change after the formation of the Agreement, nonetheless before the Engagement has been fully executed, the Contractor shall be entitled to amend the agreed fee accordingly.
5. The Contractor's fee does not depend on the outcome of the awarded Engagement.
6. The Contractor's fee, plus any advances, invoices from third parties and costs incurred, if applicable, shall be charged on a monthly basis, unless the Client and the Contractor have made agreements to the contrary. Turnover tax shall be charged separately on all amounts that the Client is required to pay the Contractor, if this is required by law.

#### Article 11 Payment

1. The Client must pay the amounts owed to the Contractor within the agreed periods but never later than thirty days after the date of invoice, without the Client having any entitlement to deduction, discount or set-off. The payment date shall be the day on which the amount payable is credited to the Contractor's account. Objections to the invoice amount shall not suspend the Client's obligation to pay.
2. Payment must be made in euros by means of a transfer to the bank account to be designated by the Contractor.
3. In the event that the Client has not paid within the period stated in paragraph one, the Client shall be in default by operation of law and the Contractor shall be entitled from that time to charge statutory (commercial) interest until the date on which the amount due is paid in full.
4. If the Client, if acting in the course of its business or profession, fails to pay within the period stated in paragraph one or within a different period agreed by the Parties, the Client shall be obliged to pay all judicial and extrajudicial (collection) costs incurred by the Contractor. Payment of the costs incurred shall not be limited to any order to pay costs given by a court.
5. If the Client is not acting in the course of its business or profession, the Client shall be obliged to pay extrajudicial collection costs equal to the maximum amount in accordance with the Dutch Decree on payment of extrajudicial collection costs [*Besluit vergoeding van buitengerechtelijke incassokosten*]. The Client shall be required to pay these extrajudicial collection costs after it has failed to respond to a reminder to pay within fourteen days while already being in default.
6. In the case of a jointly awarded Engagement, Clients shall be jointly and severally liable for payment of the invoice amount, the interest payable and other costs incurred, irrespective of the name stated on the invoice.
7. The Contractor shall be entitled to demand that the Client provides (additional) security without delay in a form to be determined by the Contractor in the event that the Contractor deems the Client's financial position or payment behaviour to constitute grounds to do so, or in the event that the Client fails to pay an advance or an invoice within the payment period set for this. If the Client fails to provide the demanded security, the Contractor shall be entitled, without prejudice to its other rights, to suspend the further execution of the Agreement, and all that which the Client is required to pay to the Contractor for whatever reason shall be payable immediately.

## Article 12 Complaints

1. Complaints in relation to the performed Activities and/or the invoice amount must be made known to the Contractor in writing within thirty days after the date of sending the documents or information to which the Client complaints refers to, or, if the Client demonstrates that it could not reasonably have identified the shortcoming sooner, within thirty days after identifying the shortcoming. Once thirty days have elapsed after the date of sending the documents or information or after the shortcoming was identified, the amount payable shall be regarded as undisputed.
2. A complaint does not suspend the Client's obligation to pay, except in so far as the Contractor notifies the Client in writing that it considers the complaint to be well-founded.
3. In the event of a justified complaint, the Contractor may at its own discretion adjust the fee charged, improve or perform the Activities again free of charge or no longer execute the Engagement in part or in full subject to a proportionate refund of the fee already paid by the Client.

## Article 13 Terms

1. If the Client is required to pay an advance payment or is required to provide the data and/or information necessary for the execution of the Engagement, the period within which the Activities are to be completed shall not commence until the Contractor has received payment in full or the data and/or information have been provided to the Contractor in full.
2. Deadlines by which the Activities are to be completed shall only be regarded as a strict deadline if this has been explicitly agreed in writing.
3. Unless it has been established that execution is permanently impossible, the Agreement cannot be dissolved by the Client on the grounds that a deadline has been exceeded, except if the Contractor also fails to perform the Agreement (in full) within a reasonable period of which it is notified in writing after the agreed deadline has passed. In such a case, dissolution shall be permitted in accordance with Article 6:265 of the Dutch Civil Code.

## Article 14 Termination

1. The Client or the Contractor may terminate the Agreement (prematurely) in writing at any time without observing a notice period. If the Agreement ends before the Engagement has been completed, the Client shall be required to pay the fee according to the hours stated by the Contractor for the Activities performed for the benefit of the Client.
2. If the Client has effected (premature) termination, the Contractor shall be entitled to compensation for its actual and likely loss resulting from lower capacity utilisation, as well as compensation for additional costs that the Contractor was or is reasonably required to incur as a result of the premature termination of the Engagement (e.g. costs arising from possible cancellation of works performed by third parties).
3. If the Contractor has effected (premature) termination, the Client shall be entitled to the Contractor's cooperation in transferring Activities to third parties, unless it concerns a case of intent or wilful recklessness on the part of the Client and the Contractor consequently feels compelled to terminate the Agreement. The entitlement to cooperation as provided for in this paragraph is dependent on the Client having paid all underlying outstanding advances or all invoices.

## Article 15 Liability

1. The Contractor is only liable to the Client for loss or damage resulting directly from a shortcoming in the execution of the Engagement, insofar as the shortcoming exists of not observing the care and skill which may be expected in the execution of the Engagement.
2. The Contractor is, however, not liable for:
  - a. damage sustained by the Client or third parties as a result of the provision of inaccurate or incomplete data or information to the Contractor by or on behalf of the Client, or otherwise caused by an action or omission by or on behalf of the Client
  - b. damage sustained by the Client or third parties as a result of an action or omission by auxiliaries engaged by the Contractor (not including employees of the Contractor), even if they are employed by an organisation affiliated with the Contractor
  - c. loss of profits, indirect loss or consequential loss suffered by the Client or third parties.
3. The Client is obliged to take measures to limit damages. The Contractor shall be entitled at any time to remedy or limit the losses suffered by the Client in so far as possible by rectifying or correcting the Activities performed.
4. Should the Client be considering holding the Contractor liable for compensation for losses, the Client shall be required to consult with the Contractor on this matter before proceeding with a claim for liability.
5. The Contractor's liability is limited to the amount of the fee charged for execution of the Engagement. If the Engagement concerns a continuing performance agreement with a term of more than one year, the amount intended for this is set at three times the amount of the fee that was charged to the client in the twelve months prior to the occurrence of the damage. The total compensation for the damage on the grounds of this article shall never exceed three hundred thousand euros per event. A connected series of culpable failures shall be regarded as a single event.
6. The Client is obliged to indemnify the Contractor against any claims by third parties, including the Client's shareholders, directors, supervisory directors and personnel, as well as affiliated legal entities and businesses and others involved in the Client's organisation, which arise or are connected with the Contractor's Activities for the benefit of the Client. The indemnification contained in this paragraph shall not apply to contracts to audit the financial statements in the sense of Article 2:393 of the Dutch Civil Code.
7. The exclusions or limitations of the Contractor's liability arising from the above, as well as the Client's obligation to indemnify arising from the previous paragraph, shall not apply in so far as the damage is the result of intent or wilful misconduct on the part of the Contractor.
8. The Client shall indemnify the Contractor against third-party claims due to damage resulting from the Client's failure to provide the Contractor with any information or data, or its failure to provide these accurately, in full or in good time.
9. The Client shall indemnify the Contractor against claims by third parties (including third parties used by the Contractor) that have suffered damage in connection with the execution of the Engagement as a result of an action or omission by the Client or non-secure circumstances within its business or organisation.

## Article 16 Right of suspension

1. Following a careful consideration of interests, the Contractor shall be authorised to suspend compliance with any of its obligations, including the issue of documents or other items to the Client or third parties, until the time that all debts due from the Client have been paid in full.
2. Paragraph one shall not apply to documents that have not (yet) been prepared by the Contractor.

## Article 17 Expiry date

Unless these General Terms and Conditions contain provisions to the contrary, the Client's rights to claims and other entitlements in respect of the Contractor for whatever reason in connection with the performance of Activities by the Contractor shall expire in any event one year after the Client became aware or could have reasonably been aware of the existence of said rights and entitlements.

## Article 18 Electronic communications

1. During the execution of the Engagement, the Client and the Contractor may communicate with one another using electronic means at the Client's request.
2. The Client and the Contractor shall not be liable towards one another for any loss of damages that may arise for either one or both of the Parties as a result of the use of electronic means of communication, networks, applications, electronic storage or other systems, including but not limited to loss or damage resulting from the non-delivery or delay in delivery of electronic communications, omissions, distortion, interception or manipulation of electronic communications by third parties or by software/equipment used to send, receive or process electronic communications, transmission of viruses, and the non-functioning or poor functioning of the telecommunications network or other resources required for electronic communications, except in so far as the losses are the result of misconduct or gross negligence. The aforementioned shall also apply to the Contractor's use thereof in its contact with third parties.
3. Both the Client and the Contractor shall do or refrain from all that which may be reasonably expected of them in order to prevent the occurrence of the aforementioned risks.
4. Data extracts from the Contractor's computer systems shall constitute conclusive evidence of (the contents of) the electronic communications sent by the Contractor until the time that the Client supplies evidence to the contrary.
5. The provisions of article 15 shall apply by analogy.

## Article 19 Miscellaneous provisions

1. If the Contractor performs Activities at the Client's premises, the Client shall provide a suitable workspace that complies with the statutory occupational health and safety standards and other applicable legislation and regulations relating to working conditions. In that case, the Client must ensure that the Contractor is provided with office space and other facilities that the Contractor deems necessary or useful in order to execute the Engagement and that fulfil all (statutory) requirements to be set in that regard. The Client shall be required to ensure continuity of the (computer) facilities that are made available, including but not limited to providing sufficient back-up, security and virus screening procedures. The Contractor shall apply virus screening procedures whenever it uses the Client's facilities.

2. Throughout the term of the Agreement or any extension thereof and for the twelve months thereafter, the Client shall not hire employees involved in the performance of the Activities or approach them to invite them to commence employment directly or indirectly with the Client, temporarily or otherwise, or to perform Activities directly or indirectly for the benefit of the Client, whether or not in paid employment.
3. These General Terms and Conditions have been drawn up in both Dutch and English. In the event of any discrepancy or conflict between the English and Dutch versions, the Dutch version shall be binding.
4. Provisions in the Engagement that are expressly or inherently required to remain in force after expiry or termination of the Engagement shall remain in force after expiry or termination, including Articles 8, 10, 11, 13, 19 paragraph 2, and 20.

#### **Article 20 Applicable law and jurisdiction**

1. All agreements between the Client and the Contractor shall be governed exclusively by Dutch law.
2. All disputes related to agreements between the Client and the Contractor that do not fall under the jurisdiction of the subdistrict court shall be settled exclusively by the competent court in the district of Rotterdam.
3. The provisions of paragraphs one and two of this article shall not affect the Client's option to submit a dispute or a complaint to the Contractor itself

#### **Article 21 Repair clause for invalid provisions**

1. Should any provision in these General Terms and Conditions or in the underlying Engagement/Agreement be wholly or partially void and/or invalid and/or unenforceable as a result of any statutory regulation, court judgment or otherwise, this shall have no effect whatsoever on the validity of all other provisions in these General Terms and Conditions or the underlying Engagement/Agreement.
2. Should it not be possible to invoke any provision in the Engagement or a part thereof by operation of law, the remaining part of the Engagement shall remain in full force, on the understanding that the provision in the part that cannot be invoked must be regarded as having been adapted in such a way that it is possible to invoke it, whereby the Parties' intention with regard to the original provision or the original part continues to exist as much as possible.