

General Terms and Conditions of NeD Tax

Article 1. GENERAL PROVISIONS

1. These General Terms and Conditions (GTC) have been drawn up by NeD Tax Nederland B.V. and NeD Tax Corporate Finance B.V., hereinafter referred to as 'NeD Tax', for inclusion in all agreements, in whatever form, concluded between NeD Tax and a client, hereinafter referred to as 'the Client'. These GTC also apply to any new, additional or amended assignment from the Client.
2. NeD Tax expressly rejects the applicability of any general terms and conditions of the Client.
3. Pursuant to the Money Laundering and Terrorist Financing (Prevention) Act (Wwft), NeD Tax is obliged to identify its clients. The Client shall provide NeD Tax with all relevant documents, in default of which NeD Tax has the right to suspend the execution of the assignment.
4. NeD Tax must, on the basis of the Mandatory Disclosure Rules (DAC6) and its implementation in national legislation, report potentially aggressive cross-border tax arrangements to the competent authorities. In case of a duty to report, the Client is obliged to make all necessary information available to NeD Tax. The Client shall compensate NeD Tax for the time and costs NeD Tax has to incur in making the report and the possible follow-up questions arising from it.

Article 2. THE ASSIGNMENT

1. All services and (other) work are carried out pursuant to an agreement to perform services with NeD Tax.
2. The agreement is concluded when the agreement, offer and/or confirmation of assignment has been signed by the Client and received back by NeD Tax. If the assignment is given orally or if one of the documents referred to in the preceding sentence has not been signed and returned (yet), the agreement is deemed to have been concluded under the applicability of these General Terms and Conditions at the moment NeD Tax, at the request of the Client, has started to carry out the assignment.
3. All assignments are deemed to have been exclusively given to and accepted by NeD Tax, even if it is the express or implied intention that an assignment will be carried out by a certain person. The effect of articles 7:404, 7:407 section 2 and 7:409 of the Dutch Civil Code (BW) is fully excluded.
4. All persons or legal entities engaged by NeD Tax in the performance of an agreement may invoke these General Terms and Conditions, irrespective of the legal relationship between them and NeD Tax.
5. The Client authorizes NeD Tax to perform all acts necessary for the execution of the assignment.
6. Should the Client fail accountably to meet the obligations towards NeD Tax, NeD Tax has the right, without prejudice to its other rights, to immediately suspend the further execution of the agreement and all that the Client owes NeD Tax, for whatever reason, will be immediately due and payable.

Article 3. EXECUTION OF THE ASSIGNMENT

1. All services provided by NeD Tax are performed to the best of its knowledge and ability in accordance with high standards. The intended work is subject to a best efforts obligation on the part of NeD Tax, unless explicitly stipulated otherwise.
2. NeD Tax will keep a working file on the assignment containing copies of relevant documents, which file will be the property of NeD Tax.
3. The Client shall ensure that all data and documents NeD Tax deems necessary for the correct and timely execution of the assignment are made available to NeD Tax in time and in the form and manner NeD Tax desires.
4. Unless the nature of the assignment dictates otherwise, the Client is responsible for the correctness, completeness and reliability of the data and documents made available to NeD Tax, even if they originate with or are received from third parties.
5. The extra costs and extra fees resulting from a delay in the execution of the assignment due to the fact that the requested data and/or documents were not, not timely or not properly supplied shall be borne by the Client. If the assignment is entered into on a no cure no pay basis and this assignment cannot be completed (in full) because the requested data and/or documents have not been made available or have not been made available in good time or properly, the success fee will be charged to the Client immediately and in full.
6. The Client shall ensure that NeD Tax is immediately informed about facts and circumstances that may be of importance for the correct execution of the assignment. If the assignment is entered into on a no cure no pay basis, these facts and circumstances may lead to a different assignment and/or to a situation in which NeD Tax can no longer successfully complete the assignment, this at the discretion of NeD Tax. This will in any case include the scenario where the board and/or the shareholders of the Client have in fact ceased to function as a unit, inter alia as a result of disputes between them. In that case the success fee will be charged immediately and in full by NeD Tax.
7. If the Client works out (parts of) the assignment itself, NeD Tax remains entitled to charge the full success fee, if it concerns an assignment on a no cure no pay basis.
8. During the execution of the assignment the Client and NeD Tax shall communicate with each other, inter alia, by means of electronic data interchange. The Client and NeD Tax hereby agree that they will not be liable to each other for any damage that may arise for one or both of them as a result of the use of electronic data interchange.

Article 4. FORCE MAJEURE

1. If NeD Tax is unable to fulfil its obligations under the agreement or to fulfil them on time or properly due to a cause beyond its control, including but not limited to employee sickness (whether or not caused by a pandemic), breakdowns in the computer network and other stagnation in the normal course of business within its company, those obligations will be suspended until such time as NeD Tax is able to fulfil them in the agreed manner.
2. If the situation as referred to in the first paragraph occurs, the Client has the right to terminate the agreement in whole or in part in writing after 14 days following the occurrence of the force majeure situation, without any right to compensation.
3. If NeD Tax has already partially fulfilled its obligations under the agreement at the time when the force majeure occurs or will be able to fulfil them, NeD Tax is entitled to charge the part already fulfilled or, as the case may be, the part to be fulfilled separately on an hourly basis. The Client is then obliged to settle this invoice as if it were a separate agreement.

Article 5. SECRECY

1. Unless any statutory provision, regulation or other (professional) rule obliges it to do so, NeD Tax and its employees are bound to secrecy towards third parties in respect of confidential information obtained from the Client. However, an exception is made if NeD Tax acts on its own behalf in disciplinary, civil or criminal proceedings in which this information may be of importance.
2. NeD Tax and the Client shall impose their obligations under this article on third parties engaged by them.
3. The Client shall never disclose or otherwise make available to third parties the contents of advice, opinions or other written or unwritten statements of NeD Tax, except with NeD Tax's express prior written consent.
4. In the event of infringement of the prohibition set out in the previous paragraph or in article 6 paragraph 2 of these General Terms and Conditions, the Client shall owe NeD Tax an immediately payable penalty in the amount of €5,000, without prejudice to NeD Tax's (statutory) right to claim damages.

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Article 6. INTELLECTUAL PROPERTY

1. NeD Tax reserves all intellectual property rights in respect of products of the mind which it uses or has used and/or develops and/or has developed within the framework of the execution of the assignment and/or otherwise.
2. The Client is expressly forbidden to (cause to) reproduce, publish or exploit products, including advice, (model) contracts and other intellectual products of NeD Tax, all in the broadest sense of the word. The Client has the right to multiply the written documents for use within its own organisation, as far as this is in line with the purpose of the assignment. In the event of early termination of the assignment, the foregoing shall apply mutatis mutandis.

Article 7. FEES AND COSTS

1. If after the conclusion of the agreement, but before the assignment has been executed in full, fee-determining factors such as wages and/or prices are subject to change, NeD Tax is entitled to adjust the agreed fee accordingly. This also applies to agreements that have been entered into for an indefinite period of time.
2. The fees charged by NeD Tax are exclusive of expenses, invoices of third parties engaged by NeD Tax, turnover tax and other government levies that are or may be imposed and will all be passed on by NeD Tax to the Client or charged to the Client.
3. If the assignment is entered into on a no cure no pay basis, the provisions laid down in Article 4 shall apply in a situation of force majeure as a result of which NeD Tax can no longer perform all or part of the assignment.

Article 8. PAYMENT

1. Payment by the Client must be made without any deduction, discount or set-off within 14 days of the invoice date. Objections to the amount of the invoice submitted do not suspend the Client's obligation to pay.
2. If the term referred to in paragraph 1 is exceeded, the Client shall be in default by operation of law after NeD Tax has at least once demanded payment within a reasonable term. In that case, the Client shall owe statutory interest on the amount due as from the date on which the amount is due and payable until the time of payment. In addition, any costs for collection after the Client is in default, both judicial and extrajudicial, are chargeable to the Client. The extrajudicial costs are set at a minimum of 15% of the principal sum and interest with a minimum of € 300, without prejudice to NeD Tax's right to claim the actual extrajudicial costs that exceed this amount. The judicial costs include the full costs incurred by NeD Tax, even if they exceed the statutory court-approved scale of costs.
3. If, in the opinion of NeD Tax, the Client's financial position and/or payment record give cause to do so, NeD Tax has the right to demand that the Client immediately provides (additional) security in a form to be determined by NeD Tax and/or make an advance payment. If the Client fails to provide the required security, NeD Tax shall be entitled, without prejudice to its other rights, to immediately suspend the further execution of the assignment and all that the Client owes NeD Tax by whatever reason becomes immediately due and payable.
4. In case of a jointly given assignment the Clients are jointly and severally liable for the payment of the full invoice amount.
5. In case of liquidation, bankruptcy, suspension of payment or statutory debt restructuring of the Client, all claims on the Client will be immediately due and payable.
6. NeD Tax is entitled to set off all claims between NeD Tax and the Client against each other.
7. NeD sends electronic invoices to the e-mail address provided by the Client. At the express request of the Client paper invoices may be issued. If the e-mail address of the Client changes or becomes unusable without notification to NeD Tax, the Client is bound by the invoice date and payment term mentioned in paragraph 1, as they appear from the records of NeD Tax.

Article 9. COMPLAINTS

1. Complaints with regard to the work carried out and/or the invoice amount must be communicated in writing to NeD Tax within 60 days after the date of sending the documents or information that are subject of the Client's complaint, or within 60 days after the discovery of the defect, if the Client proves that he could not reasonably have discovered the defect earlier. Complaints as referred to in the first paragraph do not suspend the Client's obligation to pay.
2. In the event of a justified complaint, the Client will be entitled to either an adjustment of the fee charged, the free rectification or new performance of the work subject to the complaint, or the complete or partial withdrawal of the assignment against a pro rata reimbursement of the fee already paid by the Client.

Article 10. TERM OF DELIVERY AND DISSOLUTION

1. If the Client has to make an advance payment or has to provide information and/or materials necessary for the execution of the work, the period within which the work must be completed by NeD Tax will not start until the payment has been received in full by NeD Tax or the information and/or materials have been made available to it in full.
2. Unless it has been established that performance is permanently impossible, the agreement may not be dissolved by the Client on account of exceeding the time limit, unless NeD Tax also fails to perform the agreement (in full) within a reasonable period notified to it in writing after expiry of the agreed delivery period. Dissolution is then permitted in accordance with article 6:265 of the Dutch Civil Code.

Article 11. TERMINATION

1. The Client and NeD Tax may at any time terminate the agreement (prematurely) in writing with due observance of a reasonable notice period, unless reasonableness and fairness dictate otherwise or if otherwise agreed.
2. The agreement may be terminated (prematurely) by either party without observing a notice period in the event that the other party is unable to pay its debts, in the event of liquidation, bankruptcy, suspension of payments or statutory debt rescheduling or if one party deems it reasonable to assume that one of the aforementioned circumstances has arisen for the other party or if a situation has arisen that justifies immediate termination in the interest of the terminating party.
3. If the Client terminates the agreement (prematurely), NeD Tax is entitled to compensation for the loss resulting from lower capacity utilisation incurred by it and made plausible, compensation of the agreed full success fee, of work already carried out as well as additional costs reasonably incurred by NeD Tax as a result of the premature termination of the agreement (such as costs relating to subcontracting), unless the termination is based on serious facts and circumstances that can be attributed to NeD Tax.
4. If NeD Tax terminates the agreement (prematurely), the Client is entitled to cooperation from NeD Tax in transferring the work to third parties, unless the termination is based on facts and circumstances that can be attributed to the Client. In all cases of (premature) termination NeD Tax retains the right to payment of the invoices for the work carried out until then, whereby the preliminary results of the work carried out until then shall be made available to the Client, subject to reservation. To the extent that the transfer of the work entails extra costs for NeD Tax, these will be

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charged to the Client. If it concerns an assignment on a no cure no pay basis, NeD Tax will be entitled to terminate the assignment, after which the work already carried out will be charged on an hourly basis or the full success fee will be charged, as the case may be, if a situation as referred to in articles 3.5 and/or 3.6 has arisen.

5. Upon termination of the agreement, each party shall hand over immediately to the other party all goods, items and documents in its possession that are the property of the other party.
6. The Client agrees in advance that NeD Tax will retain goods, items and documents in its possession as long as the Client has not fulfilled its payment obligations.

Article 12. LIABILITY

1. If the Client proves that it has suffered damages as a result of a mistake made by NeD Tax that would have been avoided if NeD Tax had exercised due care, any liability of NeD Tax shall be limited to the amount to which the professional liability insurance taken out by NeD Tax gives entitlement and which is paid out by the insurance company, including the excess borne by NeD Tax for this insurance.
2. NeD Tax is in any case not liable for any direct or indirect loss:
 - a. If arising from oral advice for which NeD Tax has not charged the Client a fee;
 - b. If a mistake is made because the Client has not timely provided NeD Tax with correct and complete information;
 - c. If the Client has not given NeD Tax the opportunity to be present during any tax audit and/or if the Client has not given NeD Tax the opportunity to remedy any shortcomings, even if further work was done in connection with or as a result of the shortcoming;
 - d. If it is caused by NeD Tax suspending its work in response to the Client's failure to pay an invoice;
 - e. If documents have been damaged or destroyed during transport or while being sent by mail, irrespective of whether the transport or sending is done by or on behalf of the Client, NeD Tax or third parties.
3. The Client shall indemnify NeD Tax against all claims of third parties for damages directly or indirectly related to the execution of the assignment, unless the Client proves that such damage is not due to culpable acts or omissions attributable to it, or is caused by intent or equivalent gross negligence on the part of NeD Tax.
4. The limitations of liability laid down in this article are also stipulated for the benefit of the third parties hired by NeD Tax to perform the assignment, who may therefore invoke these limitations of liability directly. Any liability of NeD Tax for any shortcoming(s) of these third parties is hereby excluded.

Article 13. RECRUITMENT PROHIBITION

During the execution of the assignment and within two years after termination thereof, the Client is not allowed to employ or negotiate employment with employees of NeD Tax, irrespective of whether they are or have been involved in the execution of the assignment from NeD Tax, without NeD Tax's permission. If the Client does employ (a) NeD Tax employee(s) despite this recruitment ban, the Client is obliged to compensate NeD Tax for the damages incurred, including but not limited to the recruitment costs necessary to engage (a) replacing employee(s).

Article 14. PERSONAL DATA

If NeD Tax processes personal data on behalf of the Client as processor in the performance of the agreement, these General Terms and Conditions form part of the Data Processing Agreement.

The basis on which NeD Tax processes almost all personal data is the necessity for a (proper) 'performance of a contract' or in order to take steps prior to entering into an agreement. This applies to all the services NeD Tax provides for its clients, the agreements with suppliers, the employment contracts with its staff and all the business operations that are necessary for this, such as the personnel and financial administration, debt collection and ICT processes, necessary to ensure that the business operations run correctly, efficiently and securely. The basis 'to comply with a legal obligation' applies, for example, to the financial and salary administration and the duty to cooperate with tax audits as well as verifying the identity of clients within the framework of the Money Laundering and Terrorist Financing (Prevention) Act (Wwft).

Article 15. RETENTION PERIOD

After the assignment agreement is terminated, NeD Tax will retain the relevant record with the relevant documents for no longer than the statutory retention period. After that, NeD Tax is entitled to destroy the records without further notification to the Client.

Article 16. MISCELLANEOUS

1. If and insofar as any provision of the agreement cannot be invoked on the grounds of reasonableness and fairness or its unreasonably onerous nature, the provision concerned shall in any case be accorded a meaning corresponding as closely as possible to its content and purport so that it can be invoked.
2. If any provision of these General Terms and Conditions or of the agreement should be wholly or partially invalid and/or unenforceable, this shall not affect the validity of all the other provisions of these General Terms and Conditions or of the agreement.
3. In the event that the agreement and these General Terms and Conditions contain mutually contradictory provisions, the provisions included in the agreement shall apply.
4. All rights of action and other powers of whatever nature against NeD Tax in connection with work carried out by NeD Tax shall lapse in any event one year after the date on which the person concerned became aware or could reasonably have become aware of the existence of the rights and powers.
5. NeD Tax is at all times entitled to amend the General Terms and Conditions (GTC). The amended GTC shall apply to new, additional or amended assignments and to current agreements. The most recent version of the GTC is available on NeD Tax's website and has been filed with the Chamber of Commerce.
6. The provisions of the agreement and these GTC, of which it is explicitly or implicitly intended that they shall remain in force after termination of this agreement, shall remain in force thereafter and continue to bind the parties.

Article 17. APPLICABLE LAW AND CHOICE OF FORUM CLAUSE

1. All agreements and General Terms and Conditions between the Client and NeD Tax shall be governed by Dutch law.
2. Unless the parties expressly agree otherwise in writing or unless NeD Tax determines otherwise, any disputes relating to agreements between the Client and NeD Tax shall be settled by the competent Dutch court.