

1 DEFINITIONS

The following definitions shall apply to these General Terms & Conditions:

- 1.1 You, you or the client: the party for whom the Engagement is performed.
- 1.2 We or us: one or more of the following legal entity: Coöperatie nextco U.A.
- 1.3 Engagement: the oral or written agreement in which we undertake to provide services to you.

2 APPLICABILITY

- 2.1 These General Terms & Conditions are applicable to all Engagements.
- 2.2 The applicability of the General Conditions of the Client shall be expressly rejected by us.

3 INCEPTION OF THE ENGAGEMENT

- 3.1 The Engagement shall take effect as soon as we have received the written agreement regarding the Engagement duly signed by you and us, except if Article 3.2 below applies.
- 3.2 If we have not yet received the signed Engagement, the Engagement shall be deemed to have been established under these General Terms & Conditions as soon as we have started performing the Engagement at your request.

4 YOUR OBLIGATIONS

- 4.1 If an Engagement requires your cooperation, you shall provide us with all information and documents that we require for proper and timely execution of the Engagement and you shall do so on time and in the form and manner that we require.
- 4.2 You alone shall bear the responsibility for determining the scope of the Engagement and for taking decisions (partially) based on, or in connection with, our services.
- 4.3 We shall perform the Engagement on the basis of the financial and other information provided to us in respect of the Engagement, including any meetings that we hold with you or, at your request, with third parties. You undertake to ensure that the information you provide is correct and complete. You hereby agree that if we receive information from third parties in respect of the Engagement, we can assume, without any need for further verification, that this information is correct and complete.
- 4.4 Any additional costs and damage or loss caused by a delay in the execution of the Engagement resulting from failure to make the requested information, facilities and/or staff available, or failure to do so on time or in the proper form, shall be for your account and risk.
- 4.5 In the case of Engagements that we perform at your premises, you shall ensure the provision of such office space and means of electronic communications that we consider necessary or useful for performing the Engagement and that comply with all statutory and other requirements.

5 EXECUTION OF THE ENGAGEMENT

- 5.1 We shall provide all services to the best of our knowledge and ability, and in accordance with professional standards. We shall be bound by a best-efforts obligation in relation to the (intended) services.
- 5.2 We shall determine the manner in which the Engagement will be executed and by whom. In situations in which the Engagement is explicitly intended to be performed by a specific natural person, the applicability of Sections 404 and 407(2) of Book 7 of the Dutch Civil Code is explicitly excluded.
- 5.3 Information provided to us by you shall be returned to you, at your request, after completion of the Engagement. We shall keep our own (electronic) working files on the Engagement, containing copies of in our opinion relevant documents, which shall remain our property.
- 5.4 During the execution of the Engagement, we shall not be deemed to have access to information originating from any other Engagements that have been or are being performed for you.

6 CONFIDENTIALITY AND DATA PROTECTION

- 6.1 Unless (i) we are required under any provision in the applicable national or international legislation and regulations, including professional rules and regulations, to disclose information, or (ii) we or persons affiliated with or working for us act in any disciplinary, civil, administrative or criminal proceedings in which this information may be of importance, we and the person(s) assigned by us shall neither disclose confidential information and personal data nor provide such information to third parties, other than those referred to in paragraph 2.
- 6.2 You agree, within the scope of (i) an Engagement commissioned by you to us, (ii) compliance with statutory obligations to which we are subject, (iii) risk management and quality review requirements, and (iv) internal business purposes, that we shall process confidential information and personal data concerning you and/or persons (formerly) working for, or affiliated with, you, your clients or third parties, including sharing this information with:

- (a) other Coöperatie nextco U.A. firms;
- (b) if required, parties involved in the execution of the Engagement; and
- (c) our insurers, or legal or financial advisers.

6.3 We shall take appropriate measures in order to protect the confidential information and personal data, and shall inform any third parties and employees that we engage of the confidential nature of the information.

6.4 We shall process personal data in accordance with the applicable national or international legislation and regulations, including professional rules and regulations, in the field of protection of personal data.

6.5 Except where any national or international legislation or regulations, including professional rules and regulations, require you to disclose information, or except where we have given our prior written consent, you shall not disclose, or provide to third parties, any information concerning the Engagement, the content of reports, opinions or any other written or oral statements issued by us.

6.6 The parties shall impose their obligations under this Article on any third parties that they engage.

6.7 We shall have the right to mention your name and sketch a broad outline of the services provided to potential and existing clients as an illustration of our experience.

7 INTELLECTUAL PROPERTY

7.1 We reserve all intellectual property rights in relation to products of the intellect that we use or have used and/or develop or have developed within the framework of the execution of the Engagement in respect of which we hold or can exercise copyrights or other intellectual property rights.

7.2 You are explicitly prohibited from reproducing, publishing or using for commercial purposes, whether alone or involving third parties, those products, including computer programs, systems designs, working methods, opinions, contracts and model contracts, brands and logos and our other products of the intellect, all in the broadest sense of the word. These products may not be reproduced and/or published and/or used for commercial purposes without our prior written consent. You have the right to reproduce the written documents for your own internal use insofar as this is in line with the purpose of the Engagement. This provision shall apply mutatis mutandis if the Engagement is terminated early.

8 FEE/PAYMENT

8.1 Our fee shall be exclusive of our out-of-pocket expenses, exclusive of any fees charged by third parties engaged by us and exclusive of any turnover tax and other levies that are or may be imposed by government authorities. We shall recharge the costs of any such out-of-pocket expenses, third-party fees, taxes and levies to you.

8.2 If any pricing factors, such as salaries and/or rates, are subject to change between the inception date and completion date of the Engagement, we shall have the right to adjust the previously agreed fee accordingly.

8.3 Payment of our fee is due, without any deduction, discount or debt settlement, within 15 days of the invoice date. Payments, denominated in the currency indicated in the invoice, shall be remitted to a bank account designated by us.

8.4 Complaints about or objections to any amounts charged shall not suspend your obligation to pay.

8.5 All judicial and extrajudicial (collection) costs that we incur in connection with your failure to comply with your (payment) obligations shall be for your account. We reserve the right to demand reimbursement of the costs actually incurred.

8.6 If we believe that your financial position and/or payment performance justifies such action, we have the right to demand that you immediately furnish security or additional security in a form to be determined by us and/or make an advance payment. If you fail to furnish the desired security or make the desired advance payment, we have the right, without prejudice to our other rights, to immediately suspend any further execution of the Engagement, and all amounts you owe us, for whatever reason, shall become immediately due and payable.

8.7 In the event of a jointly commissioned Engagement, all clients are jointly and severally liable for payment of the full fee charged insofar as the services were provided for the clients jointly.

9 COMPLAINTS

9.1 We must be notified in writing and within 60 days of the date of dispatch of documents or information in respect of which you are filing a complaint, subject to the risk of forfeiture, of any complaints relating to the services provided and/or the invoice amount or, if you prove that you could not have reasonably discovered that defect, error or shortcoming earlier, within 60 days of the discovery of the defect, error or shortcoming.

9.2 Complaints as referred to in the first paragraph shall not suspend your obligation to pay. Under no circumstance shall you be entitled, by virtue of a complaint in respect of a certain service, to defer or refuse payment for other services provided by us to which the complaint does not relate.

9.3 If you filed a legitimate and timely complaint, you shall have the choice between us adjusting the fee charged, having the rejected service rectified or redone free of charge, or terminating the Engagement (or remaining services) in exchange for a refund proportionate to the fee already paid by you.

10 DELIVERY PERIOD

10.1 If you are required to make an advance payment or to make information and/or materials available that is/are required for execution of the Engagement, the term for completing the services will not start until we have received the payment in full or until all information and/or materials have been made available to us respectively.

10.2 The due dates for completion of the services shall be regarded as strict deadlines only if this has been agreed in writing in advance.

10.3 Unless execution of the Engagement proves to be permanently impossible, you shall not terminate the Engagement on account of us failing to meet a deadline, unless we do not perform the Engagement, either partially or in full, within a reasonable period of which we have been notified in writing after expiry of the agreed delivery period.

11 EARLY TERMINATION OF THE ENGAGEMENT

11.1 Either party has the right to terminate the Engagement in writing, with due observance of a reasonable notice period.

11.2 Either party is entitled to terminate the Engagement, either partially or in full, in writing and with immediate effect, without notice of default or judicial intervention being required, if the other party has been granted a provisional or final suspension of payment, or has been declared insolvent or bankrupt, or if its business is or shall be wound up or discontinued.

11.3 If you decide to terminate the Engagement early, we shall be entitled to compensation for services already provided and for any costs that we reasonably have to incur as a result of the early termination of the Engagement (including costs relating to subcontracting), unless the termination was motivated by facts and circumstances that can be attributed to us. If we terminate the Engagement early, you are entitled to our assistance in transferring work to third parties, unless the termination was motivated by facts and circumstances that can be attributed to you.

12 LIABILITY

12.1 We shall provide our services to the best of our ability and exercise the due care that may be expected of us. If errors are made as a result of the provision to us of incorrect or incomplete information by you or a third party, we shall not be liable for any resulting damage. Our total liability to you for any errors that would have been prevented if we had exercised due care, is limited to a maximum of two times the fee paid and/or owed by you for the specific services provided under the Engagement from which the errors resulted. If the Engagement has a term of more than twelve months, the total liability within the scope of the Engagement shall be limited to a maximum of two times the fee paid by you and/or owed by you for the most recent twelve months for the specific services provided under the Engagement from which the errors resulted. This limitation of liability shall not apply if it is related to an intentional act (in Dutch: 'opzet') or willful recklessness (in Dutch: 'bewuste roekeloosheid') on our part and/or unless any mandatory national or international legislation or regulation, including professional rules and regulations, dictates otherwise.

12.2 If the Engagement is carried out for more than one (legal) entity/person, the limitation of liability with respect to the Engagement shall apply to all these (legal) entities/persons jointly. In the event of liability, it is up to this group of (legal) entities/persons to share the maximum amount of damages awarded among themselves.

12.3 You shall indemnify us and hold us harmless against any claims by third parties that may arise as a result of any failure on your part to comply or to comply properly with any obligation arising from the Engagement and/or these General Terms & Conditions, unless you demonstrate that the losses do not relate to imputable acts or omissions on your part, or were caused by an intentional act or willful recklessness on our part, and unless any mandatory national or international legislation or regulation, including professional rules or regulations, dictates otherwise. This indemnification shall apply also in respect of any members or employees of us or third parties whom we engage for the performance of the Engagement, who shall accordingly be able to invoke this indemnification directly.

12.4 You and/or your group companies shall exercise any rights of action or recourse exclusively against us, our employees or third parties engaged by us.

12.5 We shall not be held liable for any consequential, indirect or punitive damage and/or loss of profit.

12.6 The Engagement shall be executed under our exclusive responsibility and you and/or your group companies shall not bring any claim (whether in contract, tort or otherwise) against any other employee or third party contracted by us in connection with the performance of the Engagement. The foregoing shall not apply to damage or loss incurred as a result of an intentional act or willful recklessness on the part of the employees or third parties contracted by us. Our employees and third parties contracted by us shall have the right to rely on the foregoing as if they were parties to the Engagement. We are entitled to compensation of damage, loss and costs resulting from any violation of this provision.

12.7 Your rights of action and other powers of whatever nature with respect to us arising from the Engagement in any way, shall lapse after one year from the date on which the damage or loss for which we are held liable first manifested itself and in any event after five years from the date on which the event causing the damage or loss occurred.

13 CONTRACT TAKEOVER

Unless we give our express written consent, you shall not be permitted to assign the Engagement or any obligation laid down in it to third parties. We shall be entitled to attach conditions to our consent, which shall not be withheld on unreasonable grounds. You undertake in any case to impose on the third party all relevant payment and other obligations laid down in the Engagement and these General Terms & Conditions. In addition to the third party, you shall continue to be jointly and severally liable for the obligations laid down in the Engagement and these General Terms & Conditions.

14 USE OF THE INTERNET

The parties may communicate with each other via electronic means of communication. The parties recognise the risks associated with the use of electronic communications, including but not limited to distortion, delays, interception, manipulation and viruses. The parties hereby declare that they shall not hold each other liable for any damage or loss incurred by either of them as a result of the use of electronic communications. This also applies to the use of electronic communications – irrespective of the form – between us and third parties, including but not limited to Dutch or other tax authorities. The parties shall do or omit all that can reasonably be expected of them to avoid such risks.

15 WAIVER OF RIGHTS

Our rights and powers under the Engagement shall not be affected or limited by our failure to directly enforce any rights or powers. Notice to waive any right or power laid down in or ensuing from any provision or condition of the Engagement must be given in writing.

16 CONVERSION

If and to the extent that any provision of the Engagement cannot be invoked in all reasonableness and fairness, or by virtue of its unreasonably onerous nature, the provision in question shall in any event be accorded a meaning corresponding as closely as possible to its original purport and tenor so that this provision can nevertheless be invoked.

17 CONTINUED EFFECT

The provisions of the Engagement, which are intended, either expressly or tacitly, to remain in effect even after termination of the Engagement, shall have continued effect after the Engagement has been terminated and shall continue to bind the parties.

18 CONTRADICTORY CLAUSES/PRECEDENCE

If these General Terms & Conditions and the written Engagement contain conflicting conditions, the conditions of the written Engagement shall prevail. Deviation from these General Terms & Conditions can be agreed only in the written agreement in which we undertake to provide services to you.

19 APPLICABLE LAW AND JURISDICTION

19.1 All Engagements contracted between the parties and the negotiations of these Engagements shall be governed by the laws of the Netherlands.

19.2 Any disputes between the parties relating to Engagements contracted between them shall in the first instance be referred to the competent Court in The Hague, Netherlands.

On www.nextco.nl you will find more information about Coöperatie nextco U.A.(CoC 67311105) and its individual members.
