

## Article 1. Definitions

- 1.1 In these General Terms and Conditions, the following terms will have the following meanings:
- (a) BDO Member Firm: an independent business that is a member of BDO International Ltd.;
  - (b) BDO Groep: the group of affiliated entities operating in the Netherlands;
  - (c) Client: the party issuing the Engagement for the performance of activities;
  - (d) Contractor: the limited liability company that is a member of BDO Groep and has been contracted to provide the Activities or has signed the Engagement;
  - (e) Engagement/Agreement: the agreement for services between the Client and the Contractor, under which the Contractor undertakes to perform Activities for the Client;
  - (f) Activities: the totality of work performed under the Engagement/Agreement concluded between the Client and the Contractor;
  - (g) Wta: Audit Firms (Supervision) Act (*Wet toezicht accountantsorganisaties*).

## Article 2. Scope

- 2.1 These General Terms and Conditions apply to all legal relationships between the Contractor and the Client concerning Activities performed or to be performed by the Contractor for the benefit of the Client.
- 2.2 Any derogations from these General Terms and Conditions will only be valid if and insofar as the parties have expressly agreed them in writing.

## Article 3. Formation and term of the Agreement

- 3.1 The Agreement will be formed at the moment when the Contractor is again in possession of the engagement letter sent to the Client and signed for approval by the latter.
- 3.2 The engagement letter referred to in Article 3.1 will be based on the information which the Client provided to the Contractor and will be deemed to be a correct and complete representation of the Agreement.
- 3.3 The Agreement will apply for the term agreed by the parties. The Agreement will end in any case upon the termination and/or completion of the Activities.
- 3.4 The parties are permitted to sign the Agreement and any and all adjustments to it electronically. In addition, each party will be permitted to sign a different copy of the same document. Any amendments to the Agreement must be agreed by both parties in writing.

## Article 4. Provision of information by the Client

- 4.1 The Client must promptly provide the Contractor with, or arrange the provision of, all information, (auxiliary) materials and assistance (including access to documents, systems, buildings and persons) which the Contractor believes it needs for the correct performance of the Engagement or is obliged to obtain pursuant to the law. The information must be provided in the format and in the manner requested by the Contractor. If the Client fails to provide the information, or to do so in good time, the Contractor will be authorised to suspend the (further) performance of the Engagement with immediate effect.

- 4.2 Furthermore, the Client must, on its own initiative, provide the Contractor in good time with all information which the Client knows or should reasonably know to be important or useful for the correct performance of the Engagement.
- 4.3 The Contractor may proceed from the accuracy, completeness and reliability of the information provided to the Contractor, also if this information originates from third parties.
- 4.4 If the performance of the Engagement is delayed because the Client fails to fulfil its obligations referred to in Articles 4.1 and 4.2, or because the information provided by the Client turns out to be inaccurate, incomplete or unreliable, the (additional) costs resulting from this delay will be at the Client's expense, and the Contractor will be authorised to charge an (additional) fee for the (additional) Activities required as a result, while the Contractor will also be authorised to suspend the (further) performance of the Engagement with immediate effect.

## Article 5. Performance of the Engagement

- 5.1 The Contractor will perform the Engagement in accordance with the arrangements made between the parties, to the best of its knowledge and ability and with the due care befitting a good contractor. However, the Contractor does not guarantee that a particular result will be achieved. The Contractor will perform the Engagement as an independent contractor and not as an employee, agent or partner of the Client or in the form of a joint venture. The parties are not entitled, empowered or authorised in any way to bind the other party, unless agreed otherwise in writing.
- 5.2 The Contractor will decide which person or persons working for it or associated with it will perform the Engagement, in which context the provisions of Sections 7:403(2), 7:404, 7:407(2) and 7:409 of the Dutch Civil Code (*Burgerlijk Wetboek*) will not apply. The Contractor will also decide in what manner and with what means the Engagement will be performed.
- 5.3 The Contractor will perform the Engagement in compliance with:
  - (a) the laws and regulations applicable to the Contractor, and
  - (b) the laws and regulations applicable to the practitioners involved in the performance of the Engagement, including the rules of conduct and professional practice applicable to them.

The Contractor and/or the practitioner involved will never be obliged to perform any act or omission which is contrary to or incompatible with the aforesaid laws and regulations.
- 5.4 The Activities to be carried out by the Contractor will not be aimed specifically at detecting fraud, unless the parties have expressly agreed otherwise. If, in the Contractor's

opinion, the Activities reveal indications of fraud, the Contractor will notify the Client of this immediately, whereby the Contractor will be obliged to comply with the regulations on reporting fraud arising from the rules of conduct and professional practice applicable to the practitioners involved in the performance of the Engagement. The Client is aware that if the Engagement concerns the conduct of a statutory audit as referred to in the Wta and the Contractor obtains data or information during that statutory audit which justifies the reasonable suspicion of material fraud as referred to in the Wta, the Contractor is obliged by law to report this to an investigating officer, unless the Client takes measures in good time to undo the consequences of that fraud or to prevent a repetition of such fraud, and the Contractor considers those measures to be adequate.

- 5.5 The Contractor is permitted to outsource parts of the Activities in the context of the Engagement, either to other BDO Member Firms or to other service providers. However, only the Contractor will be responsible towards the Client in respect of (the performance of) the Activities and the other obligations based on the Engagement.
- 5.6 The periods stated by the Contractor for the performance of the Engagement will always be target periods, unless the parties have expressly agreed otherwise or it follows from the nature, substance or purport of the Engagement that these periods are final deadlines.
- 5.7 If any Activities were carried out during the performance of the Engagement which are additional to or different from the instruction, the notes relating to those Activities in the Contractor's records will justify the presumption that those Activities were carried out pursuant to a supplementary instruction, provided that those notes relate (among other things) to consultations held between the Contractor and the Client (partly) in relation to the aforesaid Activities. If the aforesaid Activities were carried out in fulfilment of the Contractor's obligations under Article 5.3, the Contractor will be authorised to charge the Client for those activities, even if the aforesaid notes are lacking.

## Article 6. Secrecy

- 6.1 The parties may not disclose the content and the existence of the Agreement to third parties. The parties must observe secrecy in respect of all data obtained in connection with the performance of the Engagement which they know or should reasonably know to be confidential.
- 6.2 In derogation from Article 6.1, however, each party will be permitted to disclose such information if this information:
  - a. is or becomes generally known due to causes other than non-compliance with the Agreement;
  - b. is subsequently received by one of the parties from a third party which, insofar as the recipient is aware, does not have a duty of secrecy towards the disclosing

- party in respect of that information;
  - c. was already known to the recipient at the time of its disclosure or was subsequently created independently;
  - d. where necessary, is disclosed in order to enforce the rights of the recipient under the Agreement;
  - e. must be disclosed pursuant to the applicable legislation, the rule of law or professional regulations;
  - f. is relevant in (legal) proceedings in which one of the parties acts on its own behalf.
- 6.3 The Contractor must impose the obligations arising for the Contractor from Articles 6.1 and 6.2 on the third parties it has involved in the performance of the Engagement pursuant to Article 5.5. The duty of secrecy under this article will not apply towards the third parties which the Contractor has involved in the performance of the Engagement pursuant to Article 5.5.
- 6.4 The Contractor may, with due observance of the applicable legislation, provide information from or about the Client to, obtain such information from and share such information with BDO Groep, BDO Member Firms, and other service providers, which may subsequently collect, use, transfer, store or otherwise process this information for purposes relating to:
- (i) performance of the Engagement;
  - (ii) compliance with the supervision requirements and/or statutory obligations applicable to the Contractor;
  - (iii) prevention of conflicts of interest;
  - (iv) risk management and quality assessments of and by the Contractor;
  - (v) internal accounting and administrative purposes of the Contractor;
  - (vi) improvement of existing services and development of new services by the Contractor;
  - (vii) IT purposes, including untraceable and anonymised use in the context of the preparation, pursuit or maintenance of best practices, statistics, research and/or benchmark studies.
- 6.5 The duties of secrecy arising from the Agreement will remain in force for an indefinite period after the termination of the Agreement.

## Article 7. Intellectual property

- 7.1 The performance of the Engagement by the Contractor will not also entail a transfer of intellectual property rights held by the Contractor. Any and all intellectual property rights arising during or resulting from the performance of the Engagement will be vested in the Contractor insofar as these rights do not (also) accrue to third parties. Any and all intellectual property rights already vested in the Client prior to the Engagement will remain vested in the Client.
- 7.2 The Contractor grants the Client a right of use with a view to the copyrights, database rights and/or other intellectual property rights that may be exercised – at any location and time – in relation to the results of the

Activities carried out. This right of use comprises all use of the results of the services within the limits of the purpose for which and the persons for whom these results were prepared. The use of the results for a purpose other than that of the Agreement, and their disclosure to persons other than those for whom these results were prepared according to the Agreement, will only be permitted with the Contractor's written consent. The Contractor will grant the Client the right of use under the Agreement free of charge at the moment when this right arises, which grant the Client already accepts at the present stage.

## Article 8. Fee

- 8.1 The fee for the Activities to be carried out pursuant to the Engagement will be calculated on the basis of the time spent on those Activities multiplied by the hourly rate applied by the Contractor, or in accordance with what the parties agreed on this point, and will exclude VAT. Unless the parties have expressly agreed otherwise, costs incurred in the context of the Engagement – including overheads, travel and subsistence expenses and other out-of-pocket expenses, as well as the costs of any third parties involved in the performance of the Engagement pursuant to Article 5.5 – will not be included in the fee and will be charged to the Client separately. The fee will be owed to the extent that the Activities have been carried out. The fee being owed will not depend on the results of the Activities carried out pursuant to the Engagement.
- 8.2 If there is a change in wages and/or costs after the formation of the Agreement but prior to the completion of the Engagement, the Contractor will be authorised to adjust the fee accordingly. Where applicable, the Contractor may annually increase the fee or budget agreed on the basis of the services price index for the year 2015 (2015=100) as determined and published by Statistics Netherlands.
- 8.3 The fee, increased where applicable by expenses and invoices from third parties involved in the performance of the Engagement pursuant to Article 5.5, will be charged to the Client periodically.
- 8.4 If the Agreement is terminated early, the Client will be obliged to pay the fee owed up to the termination of the Activities in full, increased where applicable by the costs referred to in Article 8.1.
- 8.5 If the Contractor is obliged, by virtue of the applicable legislation, legal proceedings or a government measure, to disclose information in respect of the Activities or the performance of the Engagement or have (former) partners/employees appear as witnesses, the Client will have to reimburse the Contractor for all professional hours and expenses (including reasonable external and internal costs of legal assistance) which were spent or incurred in order to comply with the request, unless and insofar as the Contractor is itself a party to the proceedings or the subject of the investigation.

## Article 9. Payment and security

- 9.1 The Client must effect payment in Dutch currency within fourteen (14) days of the invoice date, without any deduction, discount or set-off, through a payment into or transfer to a bank account to be specified by the Contractor.
- 9.2 If the Client fails to pay within the period referred to in Article 9.1, the Contractor will be authorised, without notice of default and without prejudice to the Contractor's other rights, to charge the Client interest at the statutory commercial rate over the period from the payment deadline as referred to in Article 9.1 until the date on which payment is made in full.
- 9.3 All judicial and extrajudicial (collection) costs incurred by the Contractor in connection with the Client's failure to fulfil its payment obligations, or to do so in time, will be at the Client's expense.
- 9.4 The Contractor will be authorised at all times to request a reasonable advance payment or (additional) security from the Client for the fulfilment of the latter's payment obligations. If the Client fails to comply with this request, or to do so in good time, the Contractor will be entitled, without prejudice to its other rights, to suspend the (further) performance of the Engagement with immediate effect, whereby all amounts owed by the Client to the Contractor on whatever grounds will become immediately due and payable.
- 9.5 If the Engagement is awarded by multiple Clients jointly, they will be jointly and severally liable for meeting the payment obligations arising from the Engagement if and when the Activities are provided to them jointly.
- 9.6 The Contractor will be authorised to hold back documents or records produced or modified for the benefit of the Client until the Client has paid all the amounts owed to the Contractor in connection with the performance of the Engagement or the (early) termination of the Agreement, except if and insofar as the Client's interest outweighs that of the Contractor.

## Article 10. Queries

- 10.1 If the Client has any queries concerning the invoice amount and/or the associated Activities performed by the Contractor, it must submit these to the Contractor in writing within thirty (30) days of the date of the invoice relating to the matter it wishes to query, or within thirty (30) days of detecting the matter it wishes to query. In the latter case, the Client must demonstrate that it could not reasonably have detected the matter it wishes to query any earlier.
- 10.2 The Client will not be authorised to suspend its payment obligations on account of queries as referred to in Article 10.1.
- 10.3 If and insofar as the Contractor considers the Client's query to be justified, the Contractor will be authorised, at its

discretion, to adjust the invoice amount, to rectify or repeat the Activities concerned, or to refund a part of the fee already paid without performing the Engagement any further.

- 10.4 If the Client fails to submit its query within the periods specified in Article 10.1, all its rights and claims on whatever grounds in respect of the matter it queried or could have queried within that period will lapse.

## Article 11. Liability

- 11.1 The Contractor will only be liable for losses sustained by the Client (and any parties affiliated to the Client for whose benefit Activities are performed) which are the direct result of an imputable failure in the performance of the Agreement (breach of contract) or an unlawful act, or otherwise pursuant to the law. The Contractor's aforesaid liability will be limited to a maximum of three (3) times the amount of the fee charged by the Contractor to the Client for carrying out the Activities which caused the loss, whereby only the fee will be taken into account which relates to the last twelve (12) months in which those Activities were performed.
- 11.2 The Contractor will not be liable for losses sustained because (i) the Client failed to fulfil its obligation to provide information under Articles 4.1 and 4.2, or because (ii) the information provided by the Client turned out to be inaccurate, incomplete or unreliable.
- 11.3 The Contractor will not be required to fulfil any obligation towards the Client if it is prevented from doing so by a circumstance which is not its fault or a circumstance which should not be at its expense pursuant to the law or common opinion. For the purposes of these General Terms and Conditions, force majeure, as well as having the meanings assigned to it by statutory law and case law, is understood to mean all external causes, whether foreseen or unforeseen, which are beyond the Contractor's control but which prevent the Contractor from fulfilling its obligations. These include work strikes at the Contractor's business or that of third parties. The Contractor will also have the right to invoke force majeure if the circumstance preventing (further) performance of the Agreement commences after the Contractor should have fulfilled its obligation.
- 11.4 If the Contractor, either under the Agreement or otherwise in connection with the Activities, is liable towards the Client (or towards any other parties affiliated to the Client for whose benefit Activities are performed) for losses to which other persons contributed as well, the Contractor will not be jointly and severally liable but will be liable at most for an equal share with those other persons. The Contractor's liability will be limited in any case to the part of the total loss that can in fairness be attributed to the Contractor, based on the extent to which the

circumstances attributable to the Contractor contributed to the loss. Other liable (legal) persons excluding or limiting liability will not alter the foregoing, nor will the fact that a claim for loss compensation is settled or cannot be collected. Likewise, if the loss can no longer be apportioned among all liable (legal) persons due to the death, dissolution or bankruptcy of another liable (legal) person or for whatever other reason, the Contractor's liability will be limited to the part of the loss that can in fairness be attributed to it. The foregoing will not apply to the involvement of BDO Member Firms and other service providers, as set out in Article 5.5.

- 11.5 The Contractor will always be authorised to limit or undo the Client's losses as much as possible, in which the Client will fully cooperate.
- 11.6 The Client indemnifies the Contractor against third-party claims regarding losses sustained by those third parties which relate to or arise from the Engagement performed by the Contractor, unless the Contractor is liable for such losses towards the Client under the provisions of this article.
- 11.7 The limitations of liability laid down in the previous paragraphs of this Article 11 are stipulated in part for the benefit of the BDO Member Firms and other service providers, (directors of) members, shareholders, directors, officers, partners or employees of the Contractor who are involved by the Contractor in the performance of the Engagement and can therefore invoke those limitations of liability directly.
- 11.8 The Client will no longer be able to invoke a defect in the performance if it has not protested to the Contractor in writing within one (1) year after it detected or could reasonably have detected the defect.
- 11.9 The limitations laid down in Paragraphs 1 and 4 of this Article 11 do not apply to losses caused by wilful misconduct or deliberate recklessness on the Contractor's part.
- 11.10 The Client will exercise its rights of claim and recourse (if any) relating to the Activities or otherwise arising from the Agreement only against the Contractor and not against another BDO Member Firm or against other service providers, (directors of) members, shareholders, directors, officers, partners or employees.

## Article 12. (Early) termination of Agreement

- 12.1 Either party is authorised at all times to terminate all or part of the Agreement by giving notice, subject to a reasonable notice period, unless the parties have agreed otherwise. In addition, the Contractor may terminate all or part of the Agreement in writing with immediate effect, if (i) the Contractor establishes in reasonableness and fairness that it is no longer able to carry out the Activities in accordance with the applicable legislation, the applicable rules of conduct and professional practice or for independence reasons, or if (ii) information comes

to light after the acceptance or continuation of the Engagement which, had it been known to the Contractor at the time of the acceptance or continuation of the Engagement, would have caused the Contractor not to accept or continue the Engagement, or to accept or continue it in amended form, unless the Contractor is able to adjust the Agreement with the Client in an adequate manner. Notice must be given in writing.

- 12.2 In the event that the Client is wound up, declared bankrupt or granted a moratorium, the amounts owed by the Client will be immediately due and payable.
- 12.3 If the Agreement is terminated by the Contractor, the Contractor will be obliged to inform the Client of the reason for termination and, furthermore, to do all that the Client's manifest interest requires in connection with the termination of the Agreement.

## Article 13. Amendment of General Terms and Conditions

- 13.1 The Contractor is authorised to amend these General Terms and Conditions. The General Terms and Conditions amended by the Contractor will apply towards the Client once thirty (30) days have elapsed since the Client was informed of this amendment, unless the Client notifies the Contractor within that period that it objects to the amendment. In the latter case, the Client will be authorised to give notice of termination of the Agreement with effect from the moment when the amended General Terms and Conditions would become applicable to the Agreement, but only if the amendment entails a substantial increase in the Client's obligations under the Agreement. Notice must be given in writing.
- 13.2 If the Client has made its objections to the amendment known in good time, without having duly given notice of termination of the Agreement, the unchanged General Terms and Conditions will remain in force between the parties until the Engagement has been completed or the Agreement has been terminated, but only for up to six (6) months from the end of the aforementioned period of thirty (30) days. If the Agreement continues after that, the amended General Terms and Conditions will apply from that moment onwards.

## Article 14. Complaints

- 14.1 Without prejudice to the provisions of Articles 10, 11.8 and 15 of these General Terms and Conditions, the Client has the option to submit a complaint about the performance of the Engagement to the Contractor's Complaint Handling Committee. The conditions can be viewed on the site: <https://www.bdo.nl/en-gb/about/complaints-procedure>. The complaint must be sent by post to the address stated below, or sent by email to [cls@bdo.nl](mailto:cls@bdo.nl). The Contractor will investigate the complaint



as soon as is reasonably possible and inform the Client as soon as is reasonably possible of the outcome of the investigation of the complaint.

BDO Complaint Handling Committee  
BDO Holding B.V.  
Corporate Litigation & Support  
P.O. Box 182  
5600 AD Eindhoven  
The Netherlands

## Article 15. Protection of Personal Data

- 15.1 Insofar as the Contractor processes personal data within the meaning of the General Data Protection Regulation ('GDPR') in the context of the Engagement ('Personal Data'), the Contractor will determine the purpose and means of the data processing, thus acting as the controller within the meaning of the GDPR.
- 15.2 The Contractor may process Personal Data relating to and/or provided by the Client, for example, (i) in the context of the Engagement, (ii) in the context of compliance with statutory obligations applicable to the Contractor, (iii) for the purpose of supporting the provision of services by the Contractor to the Client, (iv) for the purpose of bringing a legal claim or offering a defence against a legal claim, (v) for the purpose of approaching the Client and/or persons working at/for the Client with information about and services provided by the Contractor and third parties, including BDO Member Firms of the Contractor.
- 15.3 Personal Data processing by the Contractor in the context of activities as referred to in Article 15.2 above will take place in accordance with the applicable laws and regulations on personal data protection ('Privacy Legislation'), such as the GDPR and the General Data Protection Regulation (Implementation) Act (*Uitvoeringswet Algemene verordening gegevensbescherming ('UAVG')*). The Contractor may share Personal Data with BDO Member Firms of the Contractor and/or third parties which the Contractor involves in (the support of) the provision of services by the Contractor. The transfer of Personal Data among BDO Member Firms is subject to BDO Binding Corporate Rules. Personal Data will only be shared insofar as this is necessary in the context of the aforementioned activities and insofar as this is in agreement with the Privacy Legislation. The Contractor has appointed a Privacy Officer ([privacy@BDO.nl](mailto:privacy@BDO.nl)).
- 15.4 The Client has an independent duty to comply with the Privacy Legislation. The Client guarantees the lawfulness of the provision of the Personal Data to the Contractor and will in this context fulfil all statutory obligations applicable to the Client under the Privacy Legislation, such as the obligation to notify data subjects of the provision of their Personal Data to the Contractor and the processing of this data by the Contractor in the

context of the Engagement. Further information on the processing of Personal Data by BDO can be found in the privacy statement (<https://www.bdo.nl/en-gb/about/quality/privacy-statement>).

- 15.5 The Contractor will take appropriate technical and organisational measures to protect the Personal Data from destruction, loss, alteration, unauthorised disclosure and unauthorised access, taking into account the risks attached to the processing of the Personal Data, also in view of the nature of this data.
- 15.6 With regard to Personal Data provided by the Client, the Contractor will inform the Client if (i) a request is received from a data subject seeking to exercise his or her rights, (ii) a complaint or claim is received in relation to the processing of the Personal Data, and (iii) the Contractor makes a notification pursuant to Article 33 or 34 GDPR.
- 15.7 If the Contractor so requests, the Client will, without unreasonable delay, lend all cooperation and provide all information required to comply with the Privacy Legislation, including but not limited to information and cooperation relating to the exercise of a data subject's rights, and any infringements in connection with Personal Data.
- 15.8 The Client indemnifies the Contractor against all third-party claims arising from or relating to non-compliance with the Privacy Legislation by the Client. This indemnification extends to all losses and (legal) costs sustained or incurred by the Contractor in connection with such a claim.

## Article 16. Applicable law and disputes

- 16.1 All legal relationships (both contractual and non-contractual) between the Contractor and the Client arising from the Agreement to which these General Terms and Conditions apply will be governed by Dutch law.
- 16.2 All disputes relating to the legal relationship between the Contractor and the Client to which these General Terms and Conditions apply will be referred exclusively to the competent court in the District of Oost-Brabant, unless provisions of mandatory law dictate otherwise.

## Article 17. Other provisions

- 17.1 The titles of the articles in these General Terms and Conditions are intended only to increase readability. No rights can be derived from these titles.
- 17.2 The Client will not hire employees of the Contractor involved in the performance of the Activities or try to persuade them to enter the Client's employment either directly or indirectly on a temporary or permanent basis, or to perform activities either directly or indirectly for the benefit of the Client, through employment or otherwise, during the term of the Agreement or any extension of that term and during a subsequent period of twelve (12) months.

- 17.3 If it appears that any provision of the Agreement is wholly or partly unlawful, invalid or otherwise unenforceable, the other provisions will remain in full force.
- 17.4 Neither party is permitted to use or refer to the other party's name, logos or trade mark in public without the other party's prior consent, on the understanding that the Contractor is permitted to use the Client's name in order to identify it as one of its clients.
- 17.5 If (employees of) the Contractor should need to perform Activities on the Client's premises, the Client will make a suitable workspace available which complies with the Working Conditions Act (Arbowet) and the policy rules of the Ministry of Social Affairs and Employment regarding Offices and Computer Work Stations.

## **Article 18. Translation and authentic text**

These General Terms and Conditions have been drawn up in the Dutch language and translated into the English language. Therefore the Dutch text of these General Terms and Conditions shall apply as the authentic text thereof.