

## **General Terms And Conditions Of HerreveldvandenHurk & Partners B.V.**

### **Article 1 – General**

The following terms under the general terms and conditions have the following meaning:

The Customer: the other party contracting with HerreveldvandenHurk & Partners B.V. (further: HHP) under a contract as defined under article 2;

The Contractor: HHP, having its registered office in Rotterdam is a private limited liability company. All engagements shall be accepted and performed exclusively by or under the supervision of HHP Cygnus tax professionals.

The clauses in these general terms and conditions have also been stipulated on behalf of all persons employed by or working for HHP.

### **Article 2 – Applicability**

These general terms and conditions shall apply to (1) all contracts of engagement under which HHP is obliged to perform activities; (2) all contracts arising there from and/or relating thereto between the Customer and HHP or their respective legal successors; and (3) all offers and/or proposals made by HHP.

Clauses, which deviate from these terms and conditions, shall only apply if and to the extent that these have been expressly confirmed in writing by HHP to the Customer.

If any clause in these general terms and conditions or in the contract is or is declared invalid, the remainder of the contract shall remain unimpaired to the largest possible extent and the invalid clause shall be replaced forthwith in consultation between the parties by a clause which reflects the objective of the original clause as closely as possible.

### **Article 3 – Data and information**

HHP shall only be obliged to perform or continue to perform the engagement if the Customer has supplied HHP with all requested data and information in the indicated form and manner and paid fees and expenses on time upon invoicing. Any additional cost incurred due to the failure of the Customer to supply the requested data or information or to supply the same promptly and properly shall be borne by the Customer.

The Customer shall inform HHP forthwith of any facts and circumstances which may be of importance with regard to the performance of the engagement.

The Customer warrants the accuracy, completeness and reliability of the data and information supplied by the Customer or on its behalf to HHP.

### **Article 4 – Performance of the engagement**

HHP shall determine how and by which person(s) the engagement shall be performed, taking into account any wishes expressed by the Customer as much as possible.

HHP shall carry out the work to the best of its ability and with due professional care.

HHP does not, however, guarantee the achievement of any intended results.

The engagement shall be performed subject to the rules of professional conduct of the Dutch Association of Tax Advisors. The Customer shall respect any and all obligations arising out of such professional rules for HHP and all persons employed by or working with HHP.

The Customer shall not be entitled to cancel the contract if and when an agreed deadline is

exceeded, unless (1) HHP also fails to perform its contractual obligations within a reasonable period notified in writing after the original date of completion; (2) it is evident that the performance of the contract will be permanently impossible.

#### **Article 5 – Intellectual property rights**

HHP shall be entitled to any and all intellectual property rights developed or used by HHP during the performance of the engagement, including advice, opinions, working methods, contracts, systems, system designs, tools, economic analyses, computer programs, unless third parties explicitly are entitled to such intellectual property rights. This provision does not affect the right of the Customer to use, rely on and implement within its organisation advice etc. rendered by HHP.

Without the express prior written permission of HHP, the Customer shall not reproduce, disclose or exploit such intellectual property or a recording thereof on any data carrier, either alone or in conjunction with or through third parties, without the prejudice of the provisions in article 6.

#### **Article 6 – Confidentiality**

HHP shall not disclose data and information supplied by or on behalf of the Customer to third parties who are not involved in the performance of the engagement. This obligation shall not apply insofar as HHP has a legal or professional obligation to disclose such information or if the Customer has released HHP – partly or wholly- from its duty of confidentiality.

In the event HHP is acting on behalf of itself in disciplinary, civil or criminal proceedings, it shall be entitled to use the data and information supplied by or on behalf of the Customer as well as other data and information which have come to HHP's notice in the course of the engagement, provided such use could, in its reasonable judgment, be of importance.

Without the explicit prior written permission of HHP, the Customer shall not disclose or make available to third parties in any other way advice, opinions or other statements made by HHP, whether or not in writing, unless (1) such action arises directly from the contract or is effected to obtain an expert opinion on the work performed by HHP, (2) the Customer has a legal or professional obligation to disclose the information concerned or is acting on behalf of itself in disciplinary, civil or criminal proceedings.

#### **Article 7 – Fee and expenses**

The Customer shall pay to HHP a fee and reimburse expenses incurred in accordance with HHP's usual rates, methods of calculation and working processes. Expenses include out-of-pocket expenses. Fees and out of pocket expenses will be invoiced at a monthly basis. Cygnus Tax BV will not charge an Office Administration Costs Charge.

HHP may require the Customer to pay a retainer fee before HHP starts to provide its services. The retainer fee is set off against the total fee due pro rata during the project by decreasing the invoicing of the fee for time incurred by a percentage equal to the percentage of the retainer fee. The retainer fee amounts to at least 25% of the fees for the services to be provided.

If the Customer terminates an engagement or asks HHP to temporarily cease the performance of an engagement, the Customer is obliged to pay HHP fees and expenses incurred until the moment of notification of such termination or of such request to temporarily cease the performance of an engagement.

## **Article 8 – Payment**

Payment shall be made in Euros by deposit or transfer to the bank account stated on the invoice, without any deduction, discount or set-off, within fourteen (14) days of the invoice date.

If the Customer fails to pay within the above mentioned terms specified, HHP shall be entitled, after having reminded the Customer at least once, without further notice of default or prejudice to the other rights of HHP, to charge the Customer statutory interest from the due date until the date of payment in full and to suspend the performance of its obligations until the invoice or invoices are paid.

All extra legal costs incurred by HHP in connection with the collection of any amounts owed by the Customer shall be borne by the Customer.

All costs incurred by HHP in connection with legal proceedings against the Customer shall be borne by the Customer, including any and all costs exceeding the legal costs awarded, unless HHP is ordered to pay the legal costs as losing party.

HHP reserves the right to request the Customer to effect full or partial payment in advance and/or to provide security – even during the performance of an engagement – if the financial position or the payment behaviour of the Customer in the opinion of HHP makes this necessary. If the Customer fails to comply with this request HHP shall be entitled to suspend the performance of its obligations.

## **Article 9 – Complaints**

HHP must be informed in writing of any complaints concerning work performed or fees charged within sixty (60) days of the date of dispatch of the documents or information on which such complaints are based or, in case the Customer shall prove that it could not reasonably have discovered the shortcoming earlier, within sixty (60) days after discovery thereof, failing which the Customer shall forfeit any and all claims relating thereto.

A complaint shall not entitle the Customer to suspend its payment obligations. In the event of a justified complaint, HHP shall have the right, at its own discretion, either to adapt the fees charged, rectify the shortcoming free of charge, redo the engagement concerned, or cancel the performance of the engagement partly or in full against a proportional refund of the fee already paid by the Customer.

## **Article 10 – Liability**

HHP shall be liable to the Customer for any shortcoming in the performance of the engagement, insofar as such shortcoming implies a failure to exercise the due care and expertise which may be expected with regard to the performance of the engagement. However, Cygnus Tax BV shall in no event be liable for:

Damage suffered by the Customer or third parties resulting from inaccurate or incomplete data or information supplied by the Customer to HHP or from other acts or omissions by the Customer;

Damage suffered by the Customer or third parties resulting from the wish of the client to just share headlines with HHP without letting HHP do its own research on real data, internal reports and other relevant information from the Customer without which it is impossible to get a precise view on Customer's position;

Damage suffered by the Customer or third parties as a result of acts or omissions of auxiliary persons and/or professionals engaged by HHP (not including HHP's employees), even in case such persons and/or professionals are employed by any organisation affiliated with HHP;

Damage suffered by the Customer in a job arrangement with HHP dealing with a strategic view on future developments within taxation as a consequence of political, regional (including European Union) or mondial developments in any country of the world which affect tax system(s). *Indirect, special or consequential damage suffered by the Customer or third parties.*

The exclusions from liability set forth in the above article shall not apply if the damage is caused by gross negligence or willful misconduct on the part of HHP. HHP's liability for a shortcoming in the performance of the engagement or for torts committed shall be limited to the amount of fees (exclusive of VAT and out of pocket expenses) paid and/or owed by the Customer to HHP pursuant to Article 7 in respect of the work to which the loss-causing occurrence relates or is connected, subject to a maximum of twenty five thousand Euros (EUR 25,000).

Any and all claims for damages shall be submitted to HHP no later than three (3) months after the Customer has discovered or could reasonably have discovered such damage, failing which the right to claim compensation shall lapse.

The Customer shall indemnify HHP against all claims from third parties, including but not limited to shareholders, directors, supervisory directors and employees of the Customer as well as affiliated legal entities and companies and others involved in the organisation of the Customer, arising from or in connection with the work performed by HHP for the Customer, unless such claims are due to gross negligence or wilful misconduct on the part of HHP.

#### **Article 11 – Limitation period**

Unless these general terms and conditions provide otherwise, any and all claims of the Customer against HHP in connection with the performance of the engagement by HHP, regardless of their nature, shall expire within three (3) months after the date the Customer has become aware or could reasonably have been aware of the existence of such claims.

#### **Article 12 – Choice of law, disputes**

All contracts between the Customer and HHP shall be governed exclusively by Dutch law. Disputes which do not fall within the jurisdiction of the lower court shall be submitted to the competent court in the place in which the registered office of HHP in the Netherlands is situated.

Notwithstanding the provisions in the above article, the Customer and HHP may choose a different manner of dispute settlement.

#### **Article 13 – Other**

Customer shall provide proof of its identity to HHP in accordance with the Dutch Act on Avoidance of Money Laundering and Terrorism Financing.

HHP may transfer claims for payment of invoices to other group companies within the HHP Group or to third parties