

General Terms and Conditions of Kruger Business Consultants of Rotterdam

Article 1. General Provisions

1. Kruger Business Consultants B.V. (hereinafter referred to as "Kruger") is a private limited company with corporate seat in Rotterdam.
2. In these Standard Terms and Conditions the following terms shall have the following meanings:
 - Client: the party requesting the services;
 - the Service Provider: Kruger.
3. All orders for services are accepted and performed exclusively by Kruger. Sections 404 and 407(2) in Book 7 of the Dutch Civil Code do not apply.
4. The provisions of these Standard Terms and Conditions also inure to the benefit of the partners of the Service Provider, as well as the Directors of the partners (i.e. the professional practice companies) and all those working for the Service Provider.

Article 2. Applicability

These Standard Terms and Conditions apply to all legal relationships between the Client and the Service Provider.

Article 3. Conclusion, term and termination of the agreement

1. The agreement is formed at the time of acceptance by the Service Provider of the order for services or at the start of its execution by the Service Provider.
2. The agreement is concluded for an indefinite term, unless it follows from the scope, nature or spirit of the order that the agreement has been concluded for a fixed term for the duration of a specific project.
3. Both the Client and the Service Provider may terminate the agreement at any time.

Article 4. Performance of the services

1. The Service Provider shall determine the manner in which and by whom the services will be performed.
2. Titles used by individuals who are charged with or engaged for the performance of the services are used only as an indication of their expertise. Individuals using the title of *Registeraccountant* (RA) or *Accountant-administratieconsulent* (AA) do not act as auditors or accountants. Figures provided by them have not been audited.
3. The Client is obliged to notify the Service Provider as soon as possible of any facts or circumstances that may be relevant to the correct performance of the services.
4. The Client may involve third parties in the performance of the services only subject to agreement with the Service Provider. The provision of the preceding sentence shall apply by analogy to the Service Provider.
5. The Service Provider shall exercise due care when engaging third parties and shall consult with the Client about the selection of a third party to the extent that this is customary or reasonable given the relationship with the Client. The Service Provider shall be entitled to accept terms and conditions that apply to the relationship between the Service Provider and a third party or that are stipulated by a third party.
6. With respect to services intended to achieve a specific final (financial) result, the Service Provider shall be under a best efforts obligation only.

Article 5. Information

The Client is obliged to provide the Service Provider with all such information and documents as the Service Provider considers necessary for the correct performance of the services or, as the case may be, to give every assistance to enable the Service Provider to obtain the information it considers necessary.

Article 6. Confidentiality

1. The Service Provider is bound by a duty of confidentiality not to disclose any information to vis third parties, unless it has a legal or professional duty to disclose information. An exception to this rule applies when the Service Provider itself is a party to disciplinary, criminal or civil proceedings, to the extent that it concerns facts or circumstances (whether contained in documents or otherwise) which, in the opinion of the Service Provider, may be relevant to the outcome of such proceedings.
2. Without the Service Provider's prior written permission, the Client shall not disclose the contents of reports, recommendations or other communications from the Service Provider, written or otherwise, that have not been prepared or made with the intention of providing the information contained therein to third parties. The Client shall also ensure that third parties are unable to take note of the information referred to in the preceding sentence.
3. The Service Provider shall impose its obligations under this Article on any third parties it engages.

Article 7. Fees

1. The fees payable to the Service Provider shall not be determined by the outcome or result of the services.
2. The Service Provider's fees, plus any advances and amounts invoiced by third parties whose services have been engaged, shall be invoiced to the Client on a monthly, quarterly or yearly basis or on completion of the services, except as otherwise agreed between the Client and the Service Provider. The Service Provider may issue advance invoices for services to be performed and require payment before the services are performed.
3. The amounts invoiced in advance will be deducted from the next invoice or the final invoice. Where applicable, Value Added Tax (VAT) will be invoiced separately in respect of all amounts payable by the Client to the Service Provider.

Article 8. Payment

1. The Client shall make all payments without any deduction, discount or set-off within the agreed periods, but in any event within 14 days of the invoice date. The Client waives the right to suspend any of its payment obligations. Payment shall be made in euros by means of a bank transfer to a bank account to be specified by the Service Provider.
2. If the Client fails to make payment within the period referred to in Paragraph 1 (i) the Client shall be in default without any notice of default being required and the Service Provider shall be entitled, without prejudice to any other rights of the Service Provider, to charge interest at the rate of 1.5% per month (part of a month being treated as a full month), which interest shall accrue from the due date to the date on which payment is made in full, and (ii) all amounts owed by the Client to the Service Provider shall become immediately due and payable.
3. Any judicial and extrajudicial debt collection and other costs reasonably incurred by the Service Provider owing to non-performance by the Client of its payment obligations shall be payable by the Client. The extrajudicial costs shall be equal to at least 15% of the amount due, subject to a minimum of €150.
4. The Service Provider may immediately suspend further performance of the agreement, without any warning, notice of default or any other notice being required and without prejudice to its other rights, and all amounts owed by the Client to the Service Provider on any account whatsoever shall be immediately due and payable, if the Service Provider deems such to be necessary in view of the Client's financial position and/or the Client's payment performance.
5. The Client and the Service Provider agree that the Service Provider shall be entitled at all times to set off any debts it may have to the Client on any account whatsoever against any claims which the Service Provider or any company associated with the Service Provider may have against the Client at any time on any account whatsoever, regardless of whether such claims are due and payable and conditional or unconditional. As a result of such a set-off of debts and claims, the smaller debt or claim is cancelled out by the larger debt or claim, while any balance remains owing. The companies associated with the Service Provider include Kruger Interim Management B.V., Kruger Corporate Finance B.V., as well as any companies with which the Service Provider is affiliated in a group as defined in Section 24b in Book 2 of the Dutch Civil Code.

Article 9. Complaints

1. Any complaints with respect to the invoice amount and/or the services performed must be submitted in writing to the Service Provider within 10 days of the date of dispatch of the invoice in question or the invoice on which the services in question are charged, failing which the services shall be deemed to have been performed properly, the invoice amounts shall be deemed to be correct and payable and any right of the Client to claim culpable breach of contract by the Service Provider and to claim that the invoice amount is not payable shall lapse.
2. If a complaint is justified, the Service Provider may, at its option, (i) adjust the fee charged to the Client, (ii) provide again or rectify the rejected services at no cost to the Client, or (iii) cancel or cease performance of all or part of the services in return for a pro rata refund of the fee already paid by the Client.

Article 10. Liability

1. The Service Provider shall perform his work to the best of his ability and shall be exercising the due care that can reasonably be expected of him. If an error is made because the Client has provided him with incorrect or incomplete information, the Service Provider shall not be liable for the damage caused.

2. If the Client demonstrates that he has suffered damage due to an error on the part of the Service Provider that would have been avoided if careful action had been taken, the Service Provider shall only be liable for a maximum of once the amount of the fee for a one-off order, and in case of multi-year orders for a maximum of once the amount of the fee for that order over the last calendar year, in both cases irrespective of whether such a claim is based on the agreement, wrongful act or otherwise.
3. The Client shall indemnify and hold the Service Provider harmless against costs, damage and claims of third parties caused by acts or omissions by the Service Provider for which the Client is not liable based on these General Terms and Conditions.

Article 11. Personal Data

1. The Client shall be deemed to be the 'controller', as referred to in the General Data Protection Regulation (GDPR), regarding the personal data provided to the Service Provider in the context of the assignment. The provisions mentioned below in this article shall apply regarding those personal data. The type of personal data and the categories of data subjects are described in the order documentation.
2. The Service Provider processes the personal data in the context and for the purpose of the execution of the order, including reporting to the Client, as well as sharing the personal data with any third parties (other processing managers) in case the Client gives the order and/or this necessarily results from the order. However, the Service Provider is entitled to refuse to provide certain personal data to a third party and can require the Client to provide these directly.
3. The Client guarantees that the GDPR and other applicable privacy laws and regulations, including, if applicable, Section 5, Book 7, Title 7 of the Dutch Civil Code, will be complied with when providing the personal data to the Service Provider and that the Service Provider may process the personal data for the aforementioned purposes and during the period referred to in paragraph 8 of this article. The personal data will only be processed by the Service Provider after receiving a written instruction from the Client.
4. Service Provider: (i) takes appropriate technical and organisational measures to ensure compliance with the GDPR and the protection of the rights of the recipients, (ii) ensures an appropriate level of technical and organisational security measures, (iii) ensures that everyone processing personal data under its supervision will treat these confidentially.
5. The Client gives permission to the Service Provider to hire sub-processors. Service Provider shall provide a list of companies acting as sub-processors, at the Client's request. At least equivalent agreements shall be made with the sub-processors as those laid down herein. If there is a change of sub-processor, the Service Provider will inform the Client about this. The Client shall not reasonably object to a new or other sub-processor if he/she adheres to agreements at least equivalent to those laid down herein.
6. If the Service Provider is required to process personal data by law, it will inform the Client of this, unless the statutory obligation prohibits it from doing so for important public interest reasons. As a starting point, the personal data will not be stored outside the European Economic Area (EEA); In case this occurs, the Service Provider will ensure that this is done based on an exception mentioned in the GDPR.
7. The Service Provider will inform the Client as soon as possible, should there be a "breach of security" as referred to in the GDPR regarding personal data. The Service Provider will also provide the information available to it that is required for the Client in the context of a possible notification to the competent supervisor, if possible and, if applicable, the parties involved. The Service Provider cannot be obliged to provide company confidential information.
8. The Service Provider will process the personal data for as long as the assignment lasts. The Client shall order the Service Provider to store the personal data for a further period of two years after the assignment has been completed. The Service Provider will then return the personal data and/or destroy any copies of the personal data at the request of the Client.
9. Considering the nature of the processing and the information available to it, the Service Provider shall provide information on compliance with the provisions and comply with reasonable requests to check this information in the Service Provider's records, at the request of the Client. The Client can exercise the right of inspection at his own expense, after a prior announcement of no less than ten working days, no more than once a year. The Client shall ensure that the usual business operations of the Service Provider will not be unnecessarily disturbed during the investigation. The Client and any third party carrying out the investigation shall keep all that is discovered during the inspection, strictly confidential. The Service Provider is entitled to inspect the results of the investigation.

10. Furthermore, considering the nature of the processing and the information available to the Service Provider, the Service Provider shall provide reasonable assistance in the context of the obligation of the Client to comply with the security obligations, the performance of any mandatory data protection impact assessments, and any mandatory consultations with the Personal Data Authority. The Service Provider will, at the Client's request, considering the nature of the processing, provide assistance where possible in complying with requests from the data subjects regarding their personal data.
11. The Client shall indemnify and hold the Service Provider harmless against costs, damage and claims from third parties in connection with a breach of the GDPR and/or other applicable privacy laws and regulations relating to personal data that cannot be attributed to the Service Provider.

Article 12. Time limits

Rights of action and other rights which the Client may assert against the Service Provider on any account whatsoever in connection with the performance of the services by the Service Provider shall in any case lapse one year after the Client becomes aware or ought reasonably to be aware of the existence of such rights, except as otherwise provided in these Standard Terms and Conditions.

Article 13. Governing law and disputes

1. The legal relationship between the Service Provider and the Client, as well as the parties using its services, shall be governed by the laws of the Netherlands.
2. Any disputes shall be submitted to the exclusive jurisdiction of the competent courts of Rotterdam, with the proviso that the Service Provider shall be entitled to submit disputes to arbitration in accordance with the Arbitration Rules of the Netherlands Arbitration Institute. In that case the arbitral tribunal shall be composed of one arbitrator, the place of arbitration shall be Rotterdam and consolidation of the arbitral proceedings with other arbitral proceedings as provided in Section 1046 in the Dutch Code of Civil Procedure shall be excluded.