

General terms and conditions Van Oers Accountants en Belastingadviseurs B.V., Van Oers Audit B.V., Van Oers Agro N.V. and Van Oers Organisatieadvies N.V.

A General

The following terms are used in these general terms and conditions:

1. Principal: the natural person or legal entity which gave the Contractor instructions to perform Work.
2. Contractor: Van Oers Accountants & Belastingadviseurs B.V., Van Oers Audit B.V., Van Oers Agro N.V. and/or Van Oers Organisatieadvies N.V., as listed in the Agreement. All Agreements are established with the Contractor and are exclusively fulfilled by the Contractor, to the exclusion of Sections 7:404 and 7:407 (2) of the Dutch Civil Code. This also applies if it is the Principal's explicit or implicit intention that the Work is to be performed by a specific individual or specific individuals.
3. Work: all work for which the Contractor has received instructions or which the Contractor performs on another account. The above applies in the broadest sense of the word and in any event comprises the work as specified in the confirmation of the instructions.
4. Documents: all goods, including documents or data media, which the Principal has made available to the Contractor, as well as all goods, including documents or data media, which have been produced or collected by the Contractor in the scope of fulfilling the instructions.
5. Agreement: every agreement between the Principal and the Contractor to perform Work by the Contractor for the Principal in conformance with the stipulations specified in the confirmation of the instructions.
4. The Contractor will fulfil the Agreement in accordance with the rules of conduct and the professional rules that apply to him, which are part of the Agreement, and in accordance with the statutory requirements. Upon request, a copy of the rules of conduct and the professional rules applying to the Contractor will be sent to the Principal. The Principal will respect the Contractor's obligations and the obligations for parties working at or for the Contractor, respectively, that arise from these rules of conduct and professional rules and from the law.
5. In the event that Work is performed for the profession or business of the Principal during the duration of the Agreement which is not covered by the Work to which the Agreement relates, this Work will be deemed to have been performed based on separate Agreements.
6. Any terms specified in the Agreement for performing the Work will be approximate terms rather than deadlines. Thus, in the event that such a term is exceeded this does not constitute a culpable failure on the part of the Contractor; consequently this is not a ground for dissolving the Agreement. Terms set for completing the Work can only be considered as deadlines if the Principal and the Contractor have explicitly agreed on this in so many words.
7. Unless stipulated otherwise in writing, the fulfilment of the Agreement is not specifically aimed at detecting fraud. In the event that the work results in indications of fraud, the Contractor will report this to the Principal. In so doing, the Contractor is required to observe applicable statutory and other rules as well as the regulations and guidelines issued by the various professional organisations.

B Applicability

1. These general terms and conditions apply to: all offers, quotations, instructions, legal relationships and agreements, under whatever name, in which the Contractor undertakes/will undertake to perform Work for the Principal, as well as to all Work resulting from the same for the Contractor.
2. Departures from and additions to these general terms and conditions are only valid if these have been agreed upon explicitly and in writing, for example in a (written) agreement or confirmation of the instructions.
3. In the event that these general terms and conditions and the confirmation of the instructions contain conflicting conditions, the conditions included in the confirmation of the instructions will apply as far as the conflict is concerned.
4. The Contractor explicitly rejects any applicability of the Principal's general terms and conditions.
5. The underlying Instructions/Agreement together with these general terms and conditions represent the full agreements between the Principal and the Contractor regarding the Work for which the Agreement is concluded. It replaces all prior agreements made between the parties or proposals made in this respect.
6. The Principal with whom an Agreement is entered into under these General Terms and Conditions, accepts the applicability of these General Terms and Conditions on all subsequent quotations of the Contractor and Agreements between the Principal and the Contractor.
7. If one or more provisions in these General Terms or Conditions are voided or were already voided, the other conditions of these General Terms and Conditions remain in full force and effect. If any provision in these General Terms and Conditions or the Agreement is not legally valid, the parties shall negotiate regarding the content of a new provision; this provision shall be as close as possible to the purport of the original provision.
8. Provisions in the Agreement or in these General Terms and Conditions that because of their nature must explicitly remain in force even after termination or expiration of the Agreement, shall remain in force after expiration or termination, including articles G, I, J, L and R.

C Commencement and duration of the agreement

1. Each Agreement is only established and commences at the time the confirmation of the instructions signed by the Principal has been returned to and signed by the Contractor. The confirmation is based on the information which the Principal supplied to the Contractor at the time of the confirmation. The confirmation is deemed to correctly and fully represent the Agreement.
2. The parties are free to prove the establishment of the Agreement by other means.
3. Each Agreement is entered into for an indefinite period of time, unless the nature, contents or purpose of the instructions given show that the Agreement was entered into for a fixed period of time.

D Information of the Principal

1. The Principal is required to make all information and Documents which the Contractor believes are necessary to correctly fulfil the Agreement available to the Contractor in time, in the requested form and in the desired manner.
2. The Contractor is entitled to suspend the fulfilment of the Agreement until the Principal has complied with the obligation mentioned in the previous paragraph.
3. The Principal is required to notify the Contractor at once regarding facts and circumstances which may be relevant in connection with the fulfilment of the Agreement.
4. The Principal guarantees that the information and documents which are made available to the Contractor by or on behalf of the Principal are correct, complete and reliable, even if the information and documents originate from third parties.
5. The extra costs resulting from delays in the fulfilment of the Agreement and the extra fee resulting from any failure to make the desired information available or to do so in time or properly will be borne by the Principal.
6. If and to the extent that the Principal so requests, the documents made available will be returned to the Principal, subject to the stipulations under N.

E Fulfilment of the Agreement

1. The Contractor determines the manner in which and by what person(s) the Agreement will be fulfilled. If possible, the Contractor will take any directions from the Principal regarding the fulfilment of the Agreement into account, provided these instructions are sound and are given in a timely fashion.
2. The Contractor will perform the Work to the best of his ability and in a manner to be expected of a careful professional. However, the Contractor cannot guarantee that any envisaged result will be realised.
3. The Contractor is entitled to have a person or third party to be designated by the Contractor perform specific Work without notification to and explicit consent from the Principal if the Contractor believes that this is advisable.

F Confidentiality and exclusivity

1. The Contractor is required to maintain confidentiality with respect to third parties who are not involved in the fulfilment of the Agreement. This confidentiality involves all confidential information which the Principal made available to the Contractor and the results obtained by processing this information. This confidentiality does not apply to the extent that statutory or professional rules, including but not limited to the notification duty resulting from the Dutch Act on Measures to Prevent Money Laundering and the Financing of Terrorism and other national or international rules with a similar purpose, impose a duty of disclosure on the Contractor, or in as far as the Principal has released the Contractor from the confidentiality obligation. This stipulation does not prevent confidential consultations between colleagues within the Contractor's organisation to the extent that the Contractor deems this necessary for careful fulfilment of the Agreement or the due observance of statutory or professional rules.
2. The Contractor is entitled to use the figures obtained after processing for statistical or comparative purposes, provided these figures cannot be traced back to individual Principals.
3. The Contractor is not entitled to use the information which the Principal makes available to the Contractor for any purpose other than the purpose for which the information was obtained, except as stipulated in paragraph 2, and in the event that the Contractor is acting on his own behalf in disciplinary, civil, administrative or criminal proceedings in which these documents may be relevant. In the event that the Contractor is accused of (complicity in) an offence or felony, the Contractor is entitled to disclose Documents from the Principal to the Tax Inspector or to the judge, if disclosure is required in the scope of conducting a defence by the Contractor. In case the Tax Inspector imposes a default penalty on the Contractor, the Contractor is also entitled to disclose such information made available to him in the context of (for the purpose of) preparing a defence. The Contractor is entitled to recover any default penalty imposed by the Tax Inspector from the Principal.
4. Except with the Contractor's explicit prior written consent, the Principal is not permitted to disclose the contents of recommendations, opinions or other (written) statements from the Contractor or to make these contents available to third parties in any other way, except to the extent that this results directly from the Agreement, is done to obtain an expert opinion regarding the Contractor's Work in question, the Principal is under a statutory or professional duty of disclosure, or the Principal acts on his own behalf in disciplinary, civil or criminal proceedings.
5. In the event of infringement of the rule laid down in the previous paragraph, the Principal owes to the Contractor an immediately payable fine to the amount of € 25,000, without prejudice to the right of the Contractor to seek compensation.

G Intellectual property

1. The intellectual property rights on anything that the Contractor uses and/or makes available as part of the execution of the Agreement, are held by the Contractor or its licensors. Nothing in the Agreement or these Terms and Conditions will lead to the transfer of intellectual property rights, unless explicitly stipulated otherwise in writing.
2. The Principal is explicitly prohibited from providing those products, including but not limited to computer programs, system designs, work methods, advice, (model) contracts and other products of the mind, all this in the broadest sense of the word whether or not by using third parties to third parties, or to reproduce, publish or exploit those products.
3. The Contractor may grant a usage right to the Principal for software, etc. This usage right shall always end at the time at which the Agreement ends, unless agreed otherwise. Once the usage right has ended, the Principal must cease using the software, etc. and refrain from using it again. The Principal must delete any software from its systems.
4. The Contractor has the right to adopt technical measures in order to protect its (intellectual property) rights or those of its licensors. The Principal is explicitly prohibited from removing or bypassing these measures.
5. The Principal is not permitted to provide (resources of) those products to third parties other than for the purpose of obtaining an expert opinion regarding the Contractor's Work. In that case, the Principal will impose his obligations under this article upon the third parties he calls in.
6. In the event of infringement of the provisions laid down in paragraphs 2, 3, 4 and/or 5, the Principal owes to the Contractor an immediately payable fine to the amount of € 25,000 without prejudice to the Contractor's right to seek compensation.

H Force majeure

1. In the event that the Contractor is unable to fulfil his obligations under the Agreement or is unable to fulfil these obligations in time or properly as a result of a cause that cannot be attributed to him, including but not limited to employee sickness, breakdowns in the computer network and other interruptions of the normal conduct of business within his enterprise, these obligations will be suspended until the time the Contractor can still fulfil these obligations in the manner agreed upon.

2. In the event that the situation referred to in the first paragraph occurs, the Principal is entitled to cancel all or part of the Agreement in writing, without this giving rise to any right to damages.
3. Insofar as at the time of the start of the force majeure, the Contractor has already partially fulfilled its obligations under the Agreement, or would be able to fulfil these, the Contractor is entitled to submit a separate invoice for the portion of the obligations that have already been fulfilled or that shall be fulfilled. The Principal is obliged to pay this invoice as if it were for a separate Agreement.

I Fee

1. The Contractor is entitled to suspend the performance of his Work before the start of the Work and in the interim until the Principal pays an advance for the work to be performed, to be reasonably fixed by the Contractor, or has furnished security for this. Initially, an advance paid by the Principal will be set off against the final invoice.
2. The Contractor's fee does not depend on the outcome of the Work performed.
3. The Contractor's fee may comprise a pre-determined amount per Agreement and/or may be calculated based on rates per time unit worked by the Contractor and is payable as and when the Contractor has performed Work for the Principal. Travel and accommodation expenses, plus licence fees can be charged separately.
4. In the event that an amount fixed per Agreement is agreed upon, the Contractor is entitled to charge a rate per time unit worked on top of this, if and to the extent that the scope of the Work exceeds the scope of the Work provided for in the Agreement, in which case the Principal must also pay this additional amount.
5. In the event that wages and/or prices change after the establishment of the Agreement but before the instructions have been fully carried out, the Contractor is entitled to adjust the rate agreed on accordingly, unless the Principal and the Contractor have made other agreements in this regard.
6. The Contractor's fee, if necessary plus disbursements and invoices from third parties called in, including the value added tax due, if any, will be charged to the Principal on a monthly, quarterly or annual basis or after completion of the Work.

J Payment

1. The Principal must pay the invoice amount within the terms agreed upon, but in no event later than 30 days after the invoice date, in Euros, at the office of the Contractor or by means of payments into a bank account to be designated by the Contractor and in as far as the payment regards work, the Principal has no right to a discount or setoff.
2. In the event that the Principal fails to pay within the term mentioned in paragraph 1 or within the term further agreed upon, the Principal will be legally in default and the Contractor is entitled to charge the statutory (commercial) interest from the due date until the day of payment in full, without any further summons or notice of default being required, all this without prejudice to the Contractor's further rights.
3. All costs arising as a result of collection of the claim in or out of court will be borne by the Principal, including to the extent that these costs exceed the court order to pay the costs of the proceedings. This relates to at least the costs on the principal sum, in accordance with the Extrajudicial Collection Costs Decree (Besluit voor vergoeding van buitengerechtelijke incassokosten) of 1 July 2012 (Government Gazette 2012/141), with a minimum of € 40.00.
4. In the event that the Contractor is of the opinion that the Principal's financial position or payment record gives rise to this, the Contractor is entitled to demand that the Principal furnish (additional) security in a form to be specified by the Contractor. In the event that the Principal fails to furnish the requested security, the Contractor is entitled without prejudice to any other rights he may have to immediately suspend the further fulfillment of the Agreement and everything that the Principal owes the Contractor on any account whatsoever will be due and payable at once.
5. In the event of instructions issued jointly, the Principals are jointly and severally liable for the payment of the invoice amount to the extent that the Work has been performed for the collective Principals.
6. The Contractor is entitled to use the payments made by the Principal first to reduce costs, as referred to in paragraph 3, then secondly to reduce the interest that has fallen due and lastly to reduce the principal sums and accrued interest.

K Complaints

1. Complaints regarding the work performed and/or the invoice amount must be notified to the Contractor in writing within 30 days after the documents or information about which the Principal complains have been sent or within 30 days after the defect is discovered, in the event that the Principal demonstrates that he reasonably was unable to discover the defect earlier.
2. Complaints as referred to in the first paragraph do not suspend the Principal's payment obligation, except to the extent that the Contractor indicates that he believes the complaint is valid.
3. The Contractor must be given the opportunity to investigate the Principal's complaint.
4. In the event of a valid complaint, the Contractor can either adjust the fee charged, rectify or redo the rejected Work at no cost or not (or no longer) perform all or part of the instructions in exchange for restitution in proportion to the fee which the Principal already paid.
5. In the event that the complaint is filed too late, all rights of the Principal in connection with the complaint become null and void.

L Liability and indemnification

1. The Contractor is only liable to the Principal for damage which directly results from a (related series of) culpable failure(s) in fulfilling the Agreement. This liability is limited to the amount paid for the event in question according to the Contractor's liability insurer, plus the excess to be paid by the Contractor under the insurance policy, if any. If the liability insurer does not pay for any reason whatsoever, the Contractor's liability is limited to the amount of the fee charged for fulfilling the Agreement. In the event that the Agreement is a continuing performance contract with a term of more than one year, the amount mentioned in the previous sentence will be set at three times the amount of the fee charged to the Principal in the twelve months preceding the occurrence of the damage. In no event will the total compensation of the damage by virtue of this article amount to more than EUR 300,000 per event, in which a series of related events is deemed to be a single event, unless in view of the scope of the instructions or the risks related to the instructions the parties at the time the Agreement is entered into feel that there is reason to deviate from this maximum.

2. Except for in the event of deliberate act or gross negligence on the part of the Contractor, the Contractor is not liable for:
 - damage occurring at the Principal or third parties which is the result of the provision of incorrect, incomplete information, or Documents that were not supplied on time, by the Principal to the Contractor or which is the result of some other act or omission on the part of the Principal, including the situation that the Contractor is not able to file the annual accounts within the statutory period to the Chamber of Commerce as a result of an act or omission (on the part) of the Principal;
 - damage occurring at the Principal or third parties which is the result of acts or omissions on the part of agents called in by the Contractor (not including employees of the Contractor), also if these work for an organisation which is affiliated with the Contractor;
 - consequential damage or loss of profits occurring at the Principal, including but not limited to interruptions in the orderly conduct of events in the Principal's business.
3. A further condition of liability is that should a defect be detected the Principal must immediately inform the Contractor of this in writing and the Contractor will at all times be entitled to remedy or limit the Principal's damage by rectifying or correcting the defective product if and to the extent possible.
4. The Contractor is not liable for any damage to or the loss of Documents during transport or dispatch, regardless of whether the transport or dispatch takes place by or on behalf of the Principal, the Contractor or third parties. During the fulfilment of the Instructions, the Principal and the Contractor may communicate by electronic means at the Principal's request. The Principal and the Contractor are not liable towards each other for damage possibly occurring for either of them as a result of the use of electronic means of communication, including -but not limited to- damage resulting from failures or delays in the delivery of electronic communication by third parties or by software/equipment used to send, receive or process electronic communications, the transmission of viruses and the failure of the telecommunication network or other means required for electronic communication to function (properly), except to the extent that the damage is the result of wilful misconduct or gross negligence. Both the Principal and the Contractor will do everything they reasonably may be expected to do or refrain from doing to prevent the risks mentioned above from occurring. The data extracts from the sender's computer systems serve as conclusive proof of (the contents of) the electronic communication sent by the sender until the recipient has furnished proof to the contrary.
5. The Principal indemnifies the Contractor against all claims from third parties, including shareholders, directors, supervisory directors and employees of the Principal, as well as affiliated legal entities and enterprises and others involved in the Principal's organisation and directly or indirectly related to the fulfillment of the Agreement. The Principal specifically indemnifies the Contractor against claims from third parties on account of damaged caused because the Principal provided incorrect or incomplete information to the Contractor, unless the Principal demonstrates that the damage is not related to any culpable act or omission on his part, or has been caused by wilful misconduct or gross negligence on the part of the Contractor. The above stipulations do not apply to instructions to audit the financial statements as referred to in Section 393 of Book 2 of the Dutch Civil Code.
6. The Principal indemnifies the Contractor against all possible claims from third parties in the event that the Contractor is forced by law and/or his professional rules to return the instructions and/or is forced to render his assistance to government agencies which are entitled to receive information both when asked and at their own initiative which the Contractor received from the Principal or third parties in the course of fulfilling the instructions.
7. All limitations regarding the Contractor's liability that are set out in this article, apply in full to the actual individual(s) performing Work on behalf of the Principal. The individuals actually performing the Work can also invoke these conditions vis-à-vis the Principal.

M Personal data

1. In the context of an engagement provided to the Contractor by the Principal, or in the context of complying with legal obligations resting with the Contractor, the Contractor may process personal data pertaining to the Principal and/or persons connected with or employed by/for the Principal.
2. The Contractor may process personal data in connection with the optimisation of the Contractor's provision of services to the Principal, as well as in connection with the ability of the Contractor to approach the Principal and/or persons employed by/for the Principal with information and services of the Contractor and third parties.
3. The processing of personal data by the Contractor in the context of the activities referred to in paragraphs 1 and 2 shall take place in accordance with applicable privacy legislation and regulations.
4. When performing the Agreement, the Principal and the Contractor are obliged to comply with all obligations applicable to them ensuing from data protection rules. At the time at which the Contractor processes personal data as a processor as defined in the General Data Protection Regulation (GDPR) on behalf of the Principal, the Principal and the Contractor shall enter into an appropriate Processor's Agreement. If the Contractor decides on the purpose and means of processing, the Contractor becomes the Controller and the "Van Oers as controller" from the Privacy Conditions shall apply.
5. The Contractor is entitled to terminate the Agreement, if the Principal, as involved party or other involved parties, exercises the rights awarded to it in the General Data Protection Regulation (GDPR), insofar as by exercising those rights, the option to process personal data for legal purposes, for performing an agreement or for the justified interest of the Contractor, are somewhat limited.
6. The Principal has an independent duty to comply with the General Data Protection Regulation (GDPR). The Principal shall indemnify the Contractor against all claims of third parties in connection with non-compliance by the Principal. The indemnification will include all loss suffered and costs incurred by the Contractor with any such claim.

N Confidentiality, safekeeping and ownership of files

1. The Contractor keeps working papers related to the engagement. The Contractor will take all steps deemed appropriate for maintaining the confidentiality and safe custody of working papers and for retaining them for a period considered acceptable for good practice and in accordance with statutory and professional requirements concerning record retention. The working papers are the property of the Contractor.

O. Expiry period

Unless otherwise stipulated in these general terms and conditions, rights of action and other powers of the Principal on any account whatsoever towards the Contractor in connection with the performance of Work by the Contractor will in any case become null and void one year after the time at which the Principal learned or reasonably could have learned of the existence of these rights and powers. This term does not regard the possibility to file a complaint with the appropriate body (bodies) for complaint handling and/or the Raad voor Geschillen (Dispute Review Board).

P. Cancellation

1. The Principal and the Contractor can terminate the Agreement at any time with immediate effect by giving notice. In the event that the Agreement ends before the instructions are completed, the stipulations of 1. second and third paragraphs apply.
2. The other party must be informed of the cancellation in writing.
3. If and to the extent that the Contractor terminates the Agreement by giving notice, he must inform the Principal of his reasons for the cancellation and do, in all reasonableness, what the circumstances require in the interest of the Principal.

Q. Right of suspension

The Contractor is entitled to suspend fulfilment of all his obligations, including the surrender of Documents or other matters to the Principal or third parties, until all payable claims against the Principal are paid in full. The Contractor may only refuse to surrender Documents after making a careful consideration of interests.

R. Applicable law and jurisdiction clause

1. All Agreements between the Principal and the Contractor to which these general terms and conditions apply are governed by Dutch law.
2. All disputes in connection with Agreements between the Principal and the Contractor to which these general terms and conditions apply will be settled by the competent court in the district where the Contractor is domiciled.
3. Contrary to the stipulation in paragraph 2, the Principal and the Contractor may opt for another dispute resolution manner.

S. Electronic communication and electronic filing of the annual accounts

1. When fulfilling the scope of the Instructions, the Principal and Contractor can communicate with one another by electronic means and/or by using electronic storage (such as cloud applications). Apart from insofar as agreed otherwise in writing, the parties can assume that sending correctly addressed fax messages, emails (including emails that are sent via the Internet) and voicemail messages, irrespective of whether these contain confidential information or documents, that relate to the Assignment, are accepted mutually. The same applies to other means of communication used or accepted by the other party.
2. The Principal and Contractor are not liable in respect of one another for damage that potentially occurs at either or both parties as a result of the use of electronic means of communication, networks, applications, electronic storage, or other systems including – but not limited to – damage as a result of non-delivery or delay in the delivery of electronic communication, omissions, distortion, interception or manipulation of electronic communication by third parties or by software/hardware used to send, receive or process electronic communication, the transmission of viruses and incorrect or non-functioning of the telecommunications network or other means needed for electronic communication, apart from insofar as the damage is the result of intentional act or gross negligence. The foregoing also applies to the use that the Contractor makes of this in its communication with third parties.
3. In addition to the previous paragraph, the Contractor accepts no liability for damages or loss that occurs because of or in relation to the electronic transmission of (electronic) annual reports and digital filing of these reports with the Chamber of Commerce.
4. Both the Principal and the Contractor shall do, or refrain from doing, everything that can reasonably be expected of them to prevent the occurrence of the aforementioned risks.
5. The data extracts from the sender's computer systems provide compelling proof of (the content of) the electronic communication sent by the sender, until evidence to the contrary is provided by the recipient.
6. The provisions in article L apply mutatis mutandis.

T. Other provisions

1. If the Contractor performs work at the Principal's site, the Principal shall ensure that a suitable workplace is available which meets the Occupational Health and Safety standards laid down by law and other applicable legislation relating to working conditions. The Principal must ensure that, in this case, the Contractor is given office space and other facilities which, in the opinion of the Contractor, are necessary or useful to perform the Agreement and that comply with all applicable (legal) requirements. With regard to (computer) facilities that are made available, the Principal is obliged to ensure continuity by means of sufficient back-up, security and virus check procedures.
2. The Principal shall not appoint or approach any of the Contractor's employees who are involved in performing the Work to, permanently or temporarily, directly or indirectly, enter the employment of the Principal, or perform work during the term of the Agreement or any extension thereof and for a 12-month period afterwards, on behalf of the Principal, directly or indirectly, permanently or temporarily, as an employed or self-employed person.