

## **A General**

Due to translation differences no rights can be derived from this English translation of the General Terms and Conditions. The original Dutch version of the General Terms and Conditions always takes precedence over this English translation.

In these general terms and conditions the following definitions apply:

1. **Client:** the natural person or legal entity who has instructed the Contractor to perform Activities.
2. **Contractor:** the (accountancy) practice that concludes the Agreement and applies these general terms and conditions. All assignments are deemed to have been given exclusively to the (accountancy) practice and not to any person associated with the (accountancy) practice. All Agreements are therefore concluded with the Contractor. This also applies if it is the Client's intention that an assignment will be performed by a specific person or specific persons associated with the (accountancy) practice. Sections 404 and 407(2) of Book 7 of the Dutch Civil Code are expressly excluded.
3. **Activities:** all activities for which an order has been given, or which are performed by the Contractor for other reasons. The foregoing applies in the broadest sense of the word and in any case includes the activities as stated in the order confirmation.
4. **Documents:** all goods made available to the Contractor by the Client, including documents or data carriers, as well as all goods produced by the Contractor in the context of the performance of the assignment, including documents or data carriers.
5. **Agreement/Assignment:** any agreement between the Client and the Contractor for the performance of Activities by the Contractor for the benefit of the Client, in accordance with the provisions of the order confirmation.

## **B Applicability**

1. These general terms and conditions apply to: all offers, quotations, assignments, legal relationships and agreements, by whatever name, whereby the Contractor undertakes / will undertake to perform Activities for the Client, as well as to all Activities for the Contractor ensuing therefrom.
2. Deviations from, and additions to, these general terms and conditions are only valid if they have been expressly agreed in writing in, for example, a (written) agreement or (a further) order confirmation.
3. In the event that these general terms and conditions and the order confirmation contain mutually contradictory conditions, the terms and conditions included in the order confirmation will apply with regard to the contradiction.
4. The applicability of the general terms and conditions of the Client is expressly rejected by the Contractor.
5. The underlying Assignment / Agreement — together with these general terms and conditions — represent the full agreements between the Client and the Contractor with regard to the Activities for which the Agreement has been concluded. All previous agreements or proposals made between the parties in this regard will lapse.
6. The Client with whom an Agreement has once been concluded under these general terms and conditions, accepts the applicability of these general terms and conditions to all subsequent actions of the Contractor as referred to in this Article B1 and Agreements between the Client and the Contractor.

7. If one or more provisions of these general terms and conditions are null and void or are annulled, the other provisions of these general terms and conditions will remain fully applicable. If any provision of these general terms and conditions or of the Agreement is not legally valid, the parties will negotiate the content of a new provision, which provision approaches the content of the original provision as closely as possible.
8. Provisions in the Agreement or these general terms and conditions that, expressly or by their nature, should also remain in force after the expiry or termination of the Agreement, will remain in force after the expiry or termination, including Articles B, H, J, K, M, Q and S paragraph 2.

## **C Privacy provision**

1. Personal data means all information that can be traced back to a natural person.
2. The Contractor shall carry out its assignment in accordance with the legislation regarding personal data, the Dutch AVG-regulation 'Algemene Verordening Gegevensbescherming' and any special legislation. It shall only collect personal data for which it has a basis for processing.
3. The Contractor shall also ensure an adequate (technical and organisational) level of security of the personal data made available to it. If, notwithstanding the organisational and technical security measures taken, loss of personal data occurs, the Contractor shall minimise any damage as much as possible. In the event of any liability on the part of the Contractor, the provisions on liability and indemnification of these General Terms and Conditions apply in full.
4. According to the Dutch AVG-regulation 'Algemene Verordening Gegevensbescherming' the Contractor is obliged to conclude a processing agreement with the Client if it processes personal data on behalf of and in accordance with the instructions of the Client. If the Contractor acts as processor during the Agreement for the Assignment with the Client, the appendix Processing Agreement Countus Groep B.V. (December 2023 version) forms an integral part of these General Terms and Conditions and the legal relationship between the Contractor and the Client.
5. After the end of the assignment, the Contractor will not store the personal data for longer than it is legally obliged to, unless the Client grants permission for a longer retention period.

## **D Commencement and Duration of the Agreement**

1. Each Agreement is only concluded and commences at the moment that the order confirmation signed by the Client has been received back and signed by the Contractor. The confirmation is based on the information provided by the Client to the Contractor at that time. The confirmation is deemed to represent the Agreement correctly and completely.
2. The parties are free to prove the coming into effect of the Agreement by other means.
3. Each Agreement is entered into for an indefinite period of time unless it follows from the nature, content or purport of the assignment granted that it has been entered into for a definite period of time.
4. The Contractor and the Client will consult on amending an Agreement if there are unforeseen circumstances that mean that unaltered maintenance of the Agreement cannot be expected according to standards of reasonableness and fairness.

## **E Client Data**

1. The Client is obliged to make available to the Contractor all data and Documents that the Contractor considers necessary for the correct performance of the Agreement, in time and in the desired form and manner. This should also include the documents that the Contractor claims to need in the context of establishing the identity of the Client. The Client must provide the Contractor with the necessary information to establish its identity prior to the performance of the Agreement.

2. The Contractor is entitled to suspend the performance of the Agreement until such time as the Client has fulfilled the obligation referred to in the previous paragraph.
3. The Client is obliged to inform the Contractor immediately about facts and circumstances that may be important in connection with the performance of the Agreement.
4. The Client guarantees the correctness, completeness and reliability of the data and Documents made available to the Contractor by or on behalf of it, even if these originate from third parties. The Contractor is not liable for damage of any nature whatsoever resulting from the inaccuracy and/or incompleteness of the information provided by the Client to the Contractor.
5. The extra costs and extra fee resulting from the delay in the performance of the Agreement, caused by the failure to make the requested data available in time or not properly or at all, shall be borne by the Client.
6. If and insofar as the Client so requests, the documents made available will be returned to it, subject to the provisions under O. The costs of this return shipment of Documents will be for the Client's account.
7. The Client indemnifies the Contractor against damage suffered by the Contractor and/or third parties from files or data transferred by the Client to the Contractor that are infected with viruses, malware or other software that disrupts computer systems, collects (sensitive) data or otherwise causes damage.
8. The Client is obliged to immediately inform the Contractor in writing as soon as it becomes aware of infected files that it has shared with or transferred to the Contractor and/or data and systems to which the Contractor's data and/or systems have been exposed in connection with the Assignment.
9. The Contractor excludes its liability to the maximum extent allowed in accordance with mandatory law with regard to the situation in which data of the Client is damaged or lost. The Contractor is not obliged and cannot be obliged to restore the data.

## **F Performance of the Agreement**

1. The Contractor determines the manner in which and by which person(s) the Agreement is performed. If possible, the Contractor will take into account timely and responsible instructions from the Client regarding the performance of the Agreement.
2. The Contractor is entitled to adjust the method of performance during the performance of the Agreement if there is a situation in which unchanged maintenance cannot be expected, such as government measures taken during the term of the Agreement, for example during a pandemic. This is at the discretion of the Contractor.
3. The Contractor will perform the Activities to the best of its ability and as a professional who acts with due care. However, the Contractor cannot guarantee the attainment of any intended result.
4. The Contractor is entitled to have certain Activities performed by a person or third party to be designated by the Contractor, without notification to and express permission from the Client, if this is desirable in the opinion of the Contractor. The costs of this person or third party to be designated will be charged to the Client.
5. The Contractor will perform the Agreement in accordance with the code of conduct and professional rules applicable to it, which form part of the Agreement, and what is required of it by law. A copy of the code of conduct and professional rules applicable to the Contractor will be sent to the Client upon request. The Client will respect the obligations arising from this code of conduct and these professional rules and under the law for the Contractor or for those who work at or for the Contractor.
6. If, during the term of the Agreement, Activities are performed for the Client's profession or company that are not comprised within the Activities to which the Agreement relates, such Activities will be deemed to have been performed on the basis of separate Agreements. The provisions of these terms and conditions also apply in full to these assignments.
7. Any deadlines stipulated in the Agreement by which the Activities must be performed are only approximate and not strict deadlines. Exceeding such a deadline therefore does not constitute an

attributable shortcoming on the part of the Contractor and therefore does not constitute grounds for dissolution of the Agreement. Deadlines by which the Activities must be completed are only to be regarded as strict deadlines if this has been expressly agreed between the Client and the Contractor.

8. Unless expressly stated otherwise in writing, the performance of the Agreement is not specifically aimed at detecting fraud. If the activities result in indications of fraud, the Contractor will report this to the Client. In doing so, the Contractor is bound by the applicable legislation and regulations and the regulations and guidelines issued by the various professional organisations.

## **G Confidentiality and Exclusivity**

1. The Contractor is obliged to maintain confidentiality vis-à-vis third parties that are not involved in the performance of the Agreement. This confidentiality relates to all information of a confidential nature made available to it by the Client and the results obtained by processing it. This confidentiality does not apply insofar as legal or professional rules, including but not limited to the reporting obligation arising from the Dutch Acts ‘Wet op de internationale bijstandverlening bij de heffing van belastingen’ and the ‘Wet ter voorkoming van witwassen en financieren van terrorisme’ and other national or international regulations with comparable purport, impose an obligation to provide information on the Contractor, or insofar as the Client has released the Contractor from the duty of confidentiality. This provision also does not prevent confidential collegial consultation within the Contractor’s organisation, insofar as the Contractor deems this necessary for careful performance of the Agreement or for careful compliance with legal or professional obligations.
2. The Contractor is entitled to use the numerical results obtained after processing, provided that those results cannot be traced back to individual Clients, for statistical or comparative purposes.
3. The Contractor is not entitled to use the information made available to it by the Client for a purpose other than that for which it was obtained, with the exception of the provisions of paragraph 2 of this Article G, and in the event that the Contractor acts for itself in disciplinary, civil or criminal proceedings, in which these documents may be significant. If the Contractor is accused of having committed or participated in a violation or crime, it is entitled to disclose Documents from the Client to the Inspector of Taxes or to the court, if disclosure is necessary in the context of conducting a defence by the Contractor.
4. Save with the explicit prior written permission of the Contractor, the Client is not permitted to publish or otherwise make available to third parties the content of advice, opinions or other expressions, written or otherwise, of the Contractor, except insofar as this arises directly from the Agreement, is done in order to obtain an expert opinion regarding the relevant Activities of the Contractor, the Client has a legal or professional obligation to disclose — such as arising from the International Assistance (Levying of Taxes) Act and from the Money Laundering and Terrorist Financing (Prevention) Act — or the Client acts on its own behalf in disciplinary, civil or criminal proceedings.
5. In the event of a violation of the provisions of the previous paragraph, the Client will owe the Contractor an immediately payable fine in the amount of €25,000, without prejudice to the (statutory) right of the Contractor to claim compensation and without prejudice to the right of the Contractor to comply with the Agreement.

## **H Intellectual Property**

1. The intellectual property rights to everything that the Contractor uses and/or makes available in the context of the performance of the Agreement are vested in the Contractor or its licensors. Nothing in the Agreement or these terms and conditions extends to the transfer of intellectual property rights, unless expressly stated otherwise in writing.
2. The Client is expressly forbidden to provide to third parties, reproduce, publish or exploit anything on which the Contractor’s intellectual property is based, including but not limited to computer programs,

system designs, working methods, advice, (model) contracts and other intellectual products, all in the broadest sense of the word, whether or not with the involvement of third parties.

3. The Contractor may, insofar as necessary, grant the Client a right of use of the intellectual property rights. This right of use always ends when the Agreement ends, unless otherwise agreed in writing. After the end of the right of use, the Client must cease and continue to cease the use of the intellectual property rights. The Client must return physically present objects of intellectual property to the Contractor and remove from its system any installed software, programs, and the like on which the right of use rested.
4. The Contractor is entitled to take technical measures to protect its rights (of intellectual property) or those of its licensors. The Client is expressly prohibited from removing or avoiding these measures.
5. The Client is not permitted to hand (tools of) those products to third parties, other than to obtain an expert opinion on the Activities of the Contractor. In that case, the Client will impose its obligations under this Article on the third parties engaged by it.
6. In the event of a violation of the provisions included in paragraphs 2, 3, 4 and/or 5, the Client will owe the Contractor an immediately due and payable penalty in the amount of €25,000, without prejudice to the (statutory) right of the Contractor to claim compensation And without prejudice to the Contractor's right to fulfilment of the Agreement.

## **I Force Majeure**

1. If the Contractor cannot fulfil its obligations under the Agreement in a timely manner or properly or at all as a result of a cause that cannot be attributed to it, including but not limited to illness of employees, malfunctions in the computer network and other stagnation in the normal course of affairs within its company — also as a result of a pandemic, for example — those obligations will be suspended until such time as the Contractor is still able to fulfil them.
2. In the event that the situation as referred to in the first paragraph arises, the Client is entitled to terminate the Agreement in whole or in part in writing after 14 days from the occurrence of the force majeure situation, without being entitled to any compensation.
3. Insofar as the Contractor has already partially fulfilled its obligations under the Agreement at the time of the occurrence of force majeure or will be able to fulfil them, the Contractor is entitled to separately invoice the part already fulfilled or to be fulfilled. The Client is obliged to pay this invoice.

## **J Fee**

1. Before the start of the Activities and in the interim, the Contractor is entitled to suspend the performance of its Activities until the Client has paid an advance to be reasonably determined by the Contractor for the activities to be performed or has provided security for this. An advance paid by the Client will, in principle, be set off against the final invoice.
2. The Contractor's fee does not depend on the outcome of the Activities performed, unless agreed otherwise in writing.
3. The Contractor's fee can consist of a predetermined amount per Agreement and/or can be calculated on the basis of rates per unit of time worked by the Contractor and is then payable as and when Activities have been performed by the Contractor for the Client. Travel and accommodation costs are charged separately.
4. If an amount determined per Agreement has been agreed, the Contractor is moreover entitled to charge a rate per time unit worked, if and insofar as the Activities exceed the Activities provided for in the Agreement, which the Client then also owes.
5. If after the conclusion of the Agreement, but before the assignment has been fully executed, wages and/or prices undergo a change, the Contractor is entitled to adjust the agreed rate accordingly, unless the Client and the Contractor have made other agreements about this.

6. In addition to the agreed fee, the Contractor is entitled to charge the Client a general fixed cost through-charge, which, for example, relates to I(C)T costs or file costs. The purpose of this through-charge is to charge the Client part of the costs incurred by the Contractor for the provision of services to the Client.
7. The Contractor's fee, if necessary increased by disbursements and invoices from engaged third parties, including any turnover tax due, will be charged to the Client per month, per quarter, per year or after completion of the activities.
8. The hours recorded in the Contractor's time recording system provide compelling evidence of the hours worked by the Contractor for the benefit of the Client until such time as evidence to the contrary is provided by the Client.

## **K Payment**

1. Payment of the invoice amount by the Client must be made within the agreed deadlines, but in no case later than 30 days after the invoice date, in euros, by means of transfers to a bank account to be designated by the latter and, insofar as the payment relates to activities, without any right to discount or set-off.
2. If the Client has not paid by the deadline referred to in paragraph 1 or within the further agreed period, it will be in default by operation of law and the Contractor will be entitled, without any further summons or notice of default being required, to charge the statutory (commercial) interest on the invoiced amount, from the due date until the day of full payment, without prejudice to the further rights of the Contractor.
3. All costs incurred as a result of judicial or extrajudicial collection of the claim are for the account of the Client, even insofar as these costs exceed the court order for costs. This concerns at least the costs covering the principal sum in accordance with the Extrajudicial Collection Costs (Fees) Decree of 1 July 2012 (Staatsblad [Bulletin of Acts and Decrees] 2012/141), with a minimum of €40.
4. The Contractor is entitled to have the payments made by the Client serve in the first instance to reduce the costs as referred to in paragraph 3, and then to reduce the interest that has fallen due and finally to reduce the due and payable principal sums that have been outstanding for the longest time and the accrued interest.
5. If, in the opinion of the Contractor, the financial position or the payment behaviour of the Client give reason to do so, the Contractor is entitled to require the Client to provide (additional) security in a form to be determined by the Contractor. If the Client fails to provide the required security, the Contractor is entitled, without prejudice to its other rights, to immediately suspend the further performance of the Agreement and all that the Client owes the Contractor, for whatever reason, is immediately due and payable.
6. In the event of liquidation, bankruptcy, suspension of payment or any other insolvency procedure including the application of the WHOA (Wet Homologatie Onderhands Akkoord – Court Approval of a Private Composition (Prevention of Insolvency) Act), the claims against the Client are immediately due and payable.
7. In the event of an assignment commissioned jointly, the Clients are jointly and severally liable for the payment of the invoice amount, the interest(s) and costs owed, insofar as the Activities have been performed for the benefit of the joint Clients.

## **L Complaints**

1. Complaints with regard to the activities performed and/or the invoice amount must be submitted in writing within 30 days after the date of dispatch of the documents or information about which the Client is complaining, or within 30 days after the discovery of the defect, if the Client demonstrates that it cannot reasonably have discovered the defect earlier, to be made known to the Contractor, with an precise statement of the nature and grounds of the complaints.



2. Complaints as referred to in the first paragraph do not suspend the Client's payment obligation, except insofar as the Contractor indicates that it considers the complaint to be well-founded.
3. The Contractor must be given the opportunity to investigate the Client's complaint.
4. In the event of a justified complaint, the Contractor has the choice between adjusting the fee charged, improving or re-performing the rejected Activities free of charge, or not (any longer) performing the assignment in whole or in part against a refund in proportion to the fee already paid by the Client.
5. If the complaint is not filed in time, all rights of the Client in connection with the complaint will lapse.

## **M Liability and Indemnity**

1. The Contractor is only liable towards the Client for damage that is the direct consequence of a (related series of) attributable shortcoming(s) in the performance of the Agreement. This liability is limited to the amount that is paid out for the relevant case according to the Contractor's liability insurer, increased by any excess to be borne by the Contractor under the insurance. If, for whatever reason, the liability insurer does not pay out, the liability of the Contractor is limited to the amount of the fee charged for the performance of the Agreement. If the Agreement concerns a continuing performance contract with a term of more than one year, the amount referred to above will be set at twice the amount of the fee paid in the twelve months prior to the occurrence of the damage that has been charged to the Client. Under no circumstances will the total compensation for damage pursuant to this Article exceed €300,000 per occurrence, whereby a series of related occurrences counts as one occurrence, unless the parties — given the size of the assignment or the risks associated with the assignment — see reason to deviate from this maximum when entering into the Agreement.
2. Save for intent or gross negligence on the part of the Contractor, the Contractor is in any event not liable for:
  1. damage suffered by the Client or third parties that is the result of the provision of incorrect, incomplete or late Documents, data or information by the Client to the Contractor, or is otherwise the consequence of an act or omission on the part of the Client, including the situation in which the Contractor is unable to deposit the annual accounts with the Chamber of Commerce within the statutory period as a result of an act or omission (on the part) of the Client;
  2. damage suffered by the Client or third parties that is the result of an act or omission of auxiliary persons engaged by the Contractor (not including employees of the Contractor), even if they work for an organisation affiliated with the Contractor;
  3. business, indirect or consequential damage suffered by the Client or third parties, including but not limited to stagnation in the regular course of affairs in the Client's company.
3. A further condition for liability is that the Client notifies the Contractor in writing immediately after discovery of a shortcoming, and the Contractor is entitled at all times, if and insofar as possible, to undo or limit the damage to the Client by repair or improvement of the defective product and/or service provided.
4. The Contractor is not liable for damage to or destruction of documents during transport or during dispatch by post, regardless of whether the transport or dispatch takes place by or on behalf of the Client, the Contractor or third parties. During the performance of the Assignment, the Client and the Contractor can communicate with each other by electronic means at the request of the Client. The Client and the Contractor are not liable to each other for damage that may ensue for one or each of them as a result of the use of electronic means of communication, including — but not limited to — damage as a result of non-delivery or delay in delivery of electronic communication by third parties or by software/equipment used for sending, receiving or processing electronic communication, transmission of viruses and the non-functioning or malfunctioning of the telecommunication network or other means required for electronic communication, except insofar as damage is the result of intent or gross negligence. Both

the Client and the Contractor will do or omit to do everything that can reasonably be expected of each of them to prevent the aforementioned risks from occurring. The data extracts from the sender's computer systems provide compelling evidence of (the content of) the electronic communication sent by the sender until proof to the contrary is provided by the recipient.

5. The Client indemnifies the Contractor against all claims from third parties, including shareholders, directors, supervisory board members and employees of the Client, as well as affiliated legal entities and companies and others involved in the Client's organisation, which are directly or indirectly related to the performance of the Agreement. In particular, the Client indemnifies the Contractor against claims from third parties due to damage caused by the Client providing incorrect or incomplete information to the Contractor, unless the Client demonstrates that the damage is not related to culpable acts or omissions on its part, or caused by intent or gross negligence on the part of the Contractor. The foregoing does not apply to assignments to audit the annual accounts, as referred to in Section 393 of Book 2 of the Dutch Civil Code.
6. The Client indemnifies the Contractor against all possible claims from third parties, in the event that the Contractor is forced by law and/or its professional rules to return the assignment and/or is forced to cooperate with government authorities, which are entitled, solicited or unsolicited, to receive information which the Contractor has received from the Client or third parties in the performance of the assignment.
7. Any claim for compensation against employees, persons with whom the Contractor has entered into a collaborative venture or contract for services, directors or other actual performer(s) (regardless of whether these persons are employed by the Contractor) is excluded. Said persons may at all times invoke this third-party clause stipulated for their benefit.

## **N Expiry Deadline**

1. Insofar as not otherwise provided in these general terms and conditions, rights to claim and other powers of the Client for whatever reason vis-à-vis the Contractor in connection with the performance of Activities by the Contractor lapse, in any event after one year from the moment the Client became aware or could reasonably have become aware of the existence of these rights and powers. This deadline does not relate to the possibility to submit a complaint to the designated body(ies) for dealing with complaints and/or to the 'Raad voor Geschillen' (Disputes Board).

## **O Termination**

1. The Client and the Contractor can terminate the Agreement at any time with immediate effect by giving notice. If the agreement ends before the assignment is completed, the provisions under J, second and third paragraphs will apply and the fee for the Activities performed and the costs incurred by the Contractor, including the costs mentioned in Article I paragraph 6 of these General Terms and Conditions, must in any event be reimbursed.
2. Termination must be notified to the other party in writing.
3. If and insofar as the Contractor terminates the Agreement by giving notice, it is obliged to notify the Client, with substantiation, of the reasons on which the termination is based and to do everything that the circumstances require in the interest of the Client, insofar as the Contractor can reasonably comply with this.

## **P Right of Suspension**

1. The Contractor is entitled to suspend the fulfilment of all its obligations, including the handover of documents or other items to the Client or third parties, until such time as all due and payable claims against the Client have been paid in full. The Contractor may only refuse the obligation to hand over Documents after a careful weighing of interests has taken place.



## **Q Applicable Law and Choice of Court**

1. Dutch law shall apply to all Agreements between the Client and the Contractor to which these general terms and conditions apply.
2. All disputes related to Agreements between the Client and the Contractor to which these general terms and conditions apply will be settled by the competent court in the district in which the Contractor is domiciled.
3. Contrary to the provisions of paragraph 2 of this Article Q, the Client and the Contractor may opt for a different method of dispute resolution.
4. The provisions of paragraphs 1, 2 and 3 of this Article Q are without prejudice to the possibility for the Client to submit a dispute to the 'Raad voor Geschillen'(Disputes Board) and/or to submit a complaint to the designated body(ies) for dealing with complaints.

## **R Electronic Communication and Electronic Filing of Annual Accounts**

1. During the performance of the Assignment, the Client and the Contractor can communicate with each other by electronic means and/or make use of electronic storage (such as cloud applications). Unless otherwise agreed in writing, the parties may assume that the sending of correctly addressed fax messages, e-mails (including e-mails sent via the Internet) and voicemail messages, whether or not they contain confidential information or documents relating to the Assignment, are mutually accepted. The same applies to other means of communication used or accepted by the other party.
2. The Client and the Contractor are not liable to each other for damage that may arise for one or each of them as a result of the use of electronic means of communication, networks, applications, electronic storage or other systems, including — but not limited to — damage resulting from non-delivery or delay in delivery of electronic communications, omissions, distortion, interception or manipulation of electronic communications by third parties or by software/equipment used for sending, receiving or processing electronic communications, transmission of viruses and failure or malfunction of the telecommunication network or other means required for electronic communication, except insofar as damage is the result of intent or gross negligence. The foregoing also applies to the use that the Contractor makes of it in its contacts with third parties.
3. In addition to the previous paragraph, the Contractor accepts no liability for any damage caused by or in connection with the electronic sending of (electronic) annual accounts and their digital filing with the Chamber of Commerce.
4. Both the Client and the Contractor will do or omit to do everything that can reasonably be expected of each of them to prevent the aforementioned risks from occurring.
5. The data extracts from the sender's computer systems provide compelling evidence of (the content of) the electronic communication sent by the sender until proof to the contrary is provided by the recipient.
6. The provisions of Article M apply accordingly.

## **S Other provisions**

1. If the Contractor performs work at the Client's location, the Client will ensure a suitable workplace that meets the statutory Health and Safety standards and other applicable regulations with regard to working conditions. In that event, the Client must ensure that the Contractor is provided with office space and other facilities that, in the opinion of the Contractor, are necessary or useful to perform the Agreement and that comply with all (legal) requirements. With regard to the (computer) facilities made available, the Client is obliged to ensure continuity, inter alia by means of adequate backup, security and virus checking procedures.
2. The Client will not hire or approach any employees of the Contractor involved in the performance of the Activities to enter into the employment of the Client, whether or not temporarily, directly or indirectly, or

directly or indirectly for the benefit of the Client, whether or not in paid employment, to perform activities during the duration of the Agreement or any extension thereof and during 12 months thereafter.

3. The Contractor is entitled to unilaterally change these general terms and conditions. In that event, the Contractor will notify the Client of the changes in a timely manner. There will be at least one month between this notification and the entry into force of the amended conditions.

## 1 General

Due to translation differences no rights can be derived from this English translation of the Processing Agreement. The original Dutch version of the Processing Agreement always takes precedence over this English translation.

In this processing agreement the following definitions apply:

1. **General Terms and Conditions:** the General Terms and Conditions of the Processor, which apply in full to every agreement between the Processor and the Processing Controller and of which General Terms and Conditions this Processing Agreement forms an inseparable part.
2. **Processor:** the private company Countus Groep B.V., with its registered office and with its principal place of business at Dokter Stolteweg 2, 8025 AV Zwolle and all entities affiliated with Countus Groep B.V.
3. **Data:** the personal data as described in Appendix 1.
4. **Client:** the natural person or legal entity who has given the Processor an order to perform Activities, as well as the Processing Controller.
5. **Agreement:** any agreement between the Client and the Processor for the performance of Activities by the Processor on behalf of the Client, in accordance with the provisions in the order confirmation.
6. **Processing Controller:** the Client who, as a natural person or legal entity, has given the Processor an order to perform Activities and whereby Data from the Client is processed.
7. **Activities:** all activities stated in the order confirmation and where the Processing Controller processes personal data in accordance with the instructions of the Processor.

## 2 Applicability of the Processing Agreement

1. This processing agreement applies to all data collected by the Processor for the Client in the context of carrying out of the Agreement with the Client, as well as to all Activities arising from the Agreement for the Processor and the data to be collected in that context.
2. The Processing Controller is responsible for the processing of the Data regarding certain categories of data subjects, as described in Appendix 1.
3. When carrying out the Agreement, the Processor shall only processes those personal data for the Processing Controller for the purposes indicated by the Processing Controller.
4. This is a processing agreement within the meaning of Article 28 (3) of the Dutch AVG-regulation 'Algemene Verordening Gegevensbescherming', in which the rights and obligations with regard to the processing of personal data are regulated in writing, including with respect to security. This processing agreement is binding on the Processor with respect to the Processing Controller.
5. Just like the General Terms and Conditions of the Processor, this processing agreement, forms part of the Agreement and all future agreements between the parties.

### **3 Processing agreement scope**

1. By giving the order to perform Activities, the Processing Controller has instructed the Processor to process the Data on behalf of the Processing Controller in the manner described in Appendix 1 in accordance with the provisions of this processing agreement.
2. The Processor processes the Data exclusively in accordance with this processing agreement, in particular with what is contained in Appendix 1. The Processor confirms that it will not process the Data for other purposes.
3. Control over the Data never rests with the Processor.
4. The Processing Controller may provide additional written instructions to the Processor because of adjustments or changes in the applicable regulations in the field of personal data protection.
5. The Processor shall only process the Data in the European Economic Area.

### **4 Confidentiality**

1. The Processor and the persons who are employed by the Processor or who perform work for it, insofar as these persons have access to personal data, only process the Data on instructions from the Processing Controller, save for divergent legal obligations.
2. The Processor and the persons who are employed by the Processor or who perform work for it, insofar as these persons have access to personal data, are obliged to maintain the confidentiality of the personal data of which they take note, except to the extent that any legal provision obliges them to notify or the need for notification arises from a task.

### **5 No further provision**

1. The Processor will not share or provide the data to third parties, unless the Processor has obtained prior written permission or an order to that effect from the Processing Controller or is obliged to do so based on mandatory regulations. If the Processor is obliged to share the Data with or provide it to third parties on the basis of mandatory regulations, the Processor will inform the Processing Controller of this in writing, unless this is not permitted.

### **6 Security measures**

1. Taking into account the state of the technology, the implementation costs, as well as the nature, the extent, the context and the processing objectives and the risks to the rights and freedoms of individuals that vary in likelihood and severity, the Processor shall take appropriate technical and organisational measures to ensure a level of security tailored to the risk. The security measures that have currently been taken are specified in Appendix 2.
2. The Processor shall ensure measures that are aimed amongst other things at preventing unnecessary collection and further processing of personal data.
3. The Data is stored and processed exclusively within the European Economic Area.

### **7 Compliance monitoring**

1. The Processor will provide the Processing Controller at its request and at its expense with information about the Processing of the Data by the Processor or Sub-processors. The Processor will provide the requested information as quickly as possible, but within five working days at the latest.

1. Once a year and at its own expense, the Processing Controller has the right to have an independent third party jointly appointed by the Processing Controller and the Processor carry out an inspection to verify whether the Processor complies with the obligations under the the Dutch AVG-regulation 'Algemene Verordening Gegevensbescherming' and this processing agreement. The Processor will provide all reasonably necessary cooperation for this. The Processor has the right to charge its costs associated with the inspection to the Processing Controller.
2. To the Processing Controller or a third party engaged by the Processing Controller, the Processor will in every case, in the context of its obligation under paragraph 1 of this Article:
  - 3.1 provide all relevant information and documents;
  - 3.2 grant access to all relevant buildings, information systems and Data.
3. The Processing Controller and Processor will consult with each other as soon as possible after the report is completed to address any risks and shortcomings. The Processor will take measures at the expense of the Processing Controller to bring or eliminate the identified risks and shortcomings to a level acceptable to the Controller, unless the parties have agreed otherwise in writing.
4. The liability of the Processor arising from or relating to the Agreement and this Processing Agreement is governed by (the latest version of) the applicable General Terms and Conditions.

## **8 Data breach**

1. As soon as possible after the Processor becomes aware of an incident or data breach that (among other things) relates or may relate to the Data, the Processor shall inform the Processing Controller of this via the contact details of the Processing Controller known to the Processor and the Processor will provide information about: the nature of the incident or data breach, the affected Data, the consequences of the incident or data breach established and expected on the Data and the measures that the Processor has taken and will take.
2. The Processor will support the Processing Controller with notifications to data subjects and/or authorities.

## **9 Inschakeling van subverwerkers**

1. To the extent necessary, the Processing Controller hereby gives the Processor permission to use Sub-processors under the express condition that the Processor imposes on these Sub-processors at least the obligations that apply in this Processing Agreement between the Processing Controller and the Processor.
2. The Processor remains liable to the Processing Controller at all times for the processing of the Data by sub-processors engaged by it.
3. At the request of the Processing Controller, the Processor shall provide within four weeks an overview of the sub-processors engaged in the processing of the Processing Controller's Data.
4. The Processing Controller has the right to object to the use of a sub-processor within four weeks. The Processing Controller and the Processor will consult with each other if the Processing Controller objects to one of the sub-processors.

## **10 Obligations to cooperate and rights of the data subjects**

1. The Processor will cooperate with the Processing Controller upon request in the event of a complaint, question or request from a data subject, or investigations or inspections by the Dutch Data Protection Authority.
2. The Processor will assist the Processing Controller at its request and at its expense in carrying out a data protection impact assessment.
3. If the Processor receives a request directly from a data subject for access, correction or deletion of his or her Data, the Processor will inform the Processing Controller within two working days of the receipt of the request. The Processor will carry out all instructions that the Processing Controller gives to the Processor in writing as a result of such a request from the data subject as quickly as possible. The Processor will take the necessary appropriate technical and organisational measures required to comply with such instructions from the Processing Controller.
4. If instructions from the Processing Controller to the Processor conflict with any legal provisions regarding data protection, the Processor shall report this to the Processing Controller.

## **11 Duration and termination**

1. This processing agreement is valid as long as the Processor has an order from the Processing Controller to process Data in accordance with the instructions of the Processing Controller on the basis of the Agreement between the Processing Controller and the Processor.
2. If, after termination of the Agreement, the Processor must retain certain data and/or documents, computer disks or other data carriers on or in which Data is contained for a legal period of time on the basis of a legal retention obligation, the Processor will ensure the destruction of these data or documents, computer disks or other data carriers within 4 weeks after termination of the legal retention obligation.
3. Upon termination of the Agreement between the Processing Controller and the Processor, the Processing Controller may, within two months after termination of the Agreement, request the Processor to return all documents, computer disks and other data carriers on which or in which data are contained, to the Processing Controller, for the account of the Processing Controller. In the event of return, the Processor will provide the data in the form available to the Processor. To the extent that the Data is in a computer system or in another form as a result of which the Data cannot reasonably be provided to the Processing Controller, the Processor will provide the Processing Controller with an accessible, legible copy of the Data. After this period has expired, the Processor will proceed to permanently destroy the Data, unless the Processor is obliged to store Data on the basis of a legal obligation.
4. Without prejudice to the other provisions of this Article 12, the Processor will not process any Data after termination of the Agreement.
5. The method of destruction is determined in consultation with the Processing Controller. After destruction, the Processor will provide written confirmation thereof to the Processing Controller.

## **12 Nullity**

1. If one or more provisions of this processing agreement are null or annulled, the remaining conditions remain fully applicable. If any provision of this processing agreement is not legally valid, the parties



1. shall mutually negotiate about the content of a new provision, which provision shall approximate the content of the original provision as closely as possible.

### **13 Governing law and choice of forum**

1. Dutch law applies to this processing agreement.
2. All disputes in connection with the processing agreement or its implementation will be submitted to the competent court in the District of Overijssel.

## Appendix 1 – Data, purposes and categories of data subjects



### Data

The Processing Controller allows the Processor to process the following Data by the Processor in the context of the order, including, but not limited to, personnel administration, payroll administration, provision of financial services:

1. Name (initials, first name and last name)
2. Telephone numbers (landline and mobile)
3. Email address
4. Date of birth/place of birth
5. Address/Place of residence
6. Details of proof of identity (in connection with the Money Laundering and Terrorist Financing (Prevention) Act, or Wwft)
7. Financial data, both business and private
8. BSN of the data subject
9. Data for incapacity for work notifications

### Purposes

The activities for which the abovementioned Data may be processed, only if necessary, are in any case:

1. The activities, to be regarded as the primary service, in the context of which the Processing Controller has issued an order to the Processor;
2. Maintenance, including updates and releases of the system made available by the Processor or sub-processor to the Processing Controller;
3. The data and technical management, also by a sub-processor;
4. The hosting, also by a sub-processor.

### Categories of data subjects

The Data that are processed regarding the following categories of data subjects:

1. Employees of the Processing Controller, as well as interns, temporary workers, seconded workers and other persons of equivalent status;
2. Suppliers and customers of the Processing Controller;
3. Partner, children and other resident family members of the Processing Controller.

### **Security measures**

The Processor has in any case taken the following security measures:

1. Logical access control by means of personal user ID and password;
2. This access control also determines which employees are granted access to which applications;
3. Encryption and secure transmission of personal data during electronic transfer to external parties;
4. Continuous attention is paid to privacy awareness;
5. Sub-processing agreements are/have been concluded with third parties;
6. Recovery procedures are tested irregularly;
7. Employment contracts have a confidentiality clause;
8. The security at data centre level is continuously monitored;
9. An implemented code of conduct is in force.