

General Terms and Conditions

The following General Terms and Conditions apply to contracts between tax consultants, tax agents and tax advisory companies (hereinafter „tax consultants“) and their clients unless alternative agreements are expressly concluded in writing or statutory regulations prescribe otherwise.

1 Scope and Performance

- [1] The scope of the services to be provided by the tax consultant shall be determined by the assignment issued.
- [2] The assignment shall be performed in accordance with the principles of proper professional practice.
- [3] The tax consultant shall assume that the facts – in particular the figures – provided by the client are correct. The tax consultant shall point out any inaccuracies identified.
- [4] Verification of the accuracy, completeness and truth and fairness of the submitted documents and figures – in particular the accounts and balance sheet – does not form part of the assignment unless this has been agreed in writing.
- [5] The tax adviser hereby informs the client that its personal data shall be collected, used and stored pursuant to the provisions of the German Federal Data Protection Act [BDSG].
- [6] The assignment does not constitute power of representation before public authorities, courts or other such bodies. Such services must be subject to a separate agreement. If, owing to the client's absence, agreement with the client concerning the lodging of appeals or the use of legal remedies is not possible, the tax consultant is entitled and obliged in cases of doubt to take action to ensure that deadlines are met.

2 Tax consultant's obligations

a Confidentiality

- [1] The tax consultant is legally obliged to observe confidentiality with respect to all facts which become known to him or her in conjunction with the performance of the assignment, unless the client releases the tax consultant from this obligation in writing. The confidentiality obligation continues to exist even after termination of the contractual relationship.
- [2] The confidentiality obligation equally applies to the tax consultant's employees.
- [3] The confidentiality obligation does not apply insofar as disclosure is required to protect the tax consultant's legitimate interests. The tax consultant is also released from the confidentiality obligation insofar as he or she is obliged to provide information and to cooperate under the terms of his or her professional indemnity insurance.
- [4] Statutory rights to refuse to provide information or submit statements in accordance with section 102 of the German Fiscal Code [AO], section 53 of the German Code on Criminal Procedure [StPO], section 383 of the German Code of Civil Procedure [ZPO] remain unaffected.
- [5] The tax consultant may only submit reports, expert opinions and other written statements on the results of his or her work, to third parties with the consent of the client.
- [6] During the course of the assignment, the tax consultant is entitled to collect personal data on the client and its employees on a computer and to convert the same to an automated file or to transfer the said data to a computer centre for further data processing.
The tax consultant is obliged to observe the confidentiality obligation when sending or transferring papers, documents, work results, etc., on paper or in electronic format. The client, as recipient, ensures for its part that all precautions are observed to ensure that papers and data sent to it only reach the competent persons. The same applies for faxes and emails. Relevant technical and organisational measures must be taken to protect the documents and data delivered. If special, extraordinary measures have to be taken, a special written agreement on the observance of additional security-related measures must be made.

b Correction of errors

- [1] The client is entitled to have any errors corrected. The tax consultant must be given the opportunity to carry out such corrections.
- [2] If the tax consultant fails to correct the errors within a reasonable period or if he/she refuses to do so, the client may, at its discretion, demand a reduction in price or cancel the contract.
- [3] Obvious errors [e.g. clerical or mathematical errors] may be corrected by the tax consultant at any time, also with respect to third parties. Other errors may be corrected by the tax consultant with respect to third parties with the client's consent. Such consent is not necessary if the legitimate interests of the tax consultant have priority over the interests of the client.

c Storage and surrender of documents

- [1] The tax consultant shall store the reference files for a period of 10 years after termination of the assignment. However, this obligation shall end before this period has elapsed if the tax consultant has sent the client a written request to take receipt of the reference files and the client has not complied with this request within six months of receiving it.
- [2] At the request of the client – and not later than the time of termination of the assignment – the tax consultant shall surrender the reference files to the client within a reasonable period. The tax consultant may take and retain transcriptions or copies of documents which he or she returns to the client.
- [3] Within the meaning of this provision, the term 'reference files' shall be understood to be all documents received by the tax consultant from or for the client in connection with the services provided. This, however, does not apply to the correspondence exchanged between the tax consultant and his or her client, or the documents which the client has already received in the original or as a copy, nor does it include documents compiled for in-house purposes.

3 Involvement of third parties

- [1] The tax consultant is entitled to use the services of co-workers, skilled third parties, tax consultants or tax-consultancy companies or data-processing companies to carry out the assignment.
- [2] When using the services of skilled third parties or data-processing companies, the tax consultant must ensure that these are subjected to the confidentiality obligation set out in section 2, paragraph 1 above.

- [3] The tax consultant is entitled to grant general representatives (section 69 of the German Tax Consultancy Act) as well as tax accounting firm trustees (section 71 of the German Tax Consultancy Act [StBerG]) access to the reference file within the meaning of section 66, subsection 2 of the Tax Consultancy Act, should they be appointed.
- [4] In order to fulfil his or her obligations in accordance with the German Federal Data Protection Act, the tax consultant is entitled to appoint a data-protection officer. Insofar as the data-protection officer is not subject to the confidentiality obligation referred to in section 2a, paragraph 2 above, the tax consultant must ensure that the data-protection officer is subjected to an obligation to maintain confidentiality with respect to all data before the start of his or her employment.

4 Liability

- [1] The tax consultant is liable for his or her own errors as well as those of his or her agents. Where alternative conditions are to apply in a specific case, a written agreement is required which is to be separately drawn up and submitted to the client together with these General Terms and Conditions at signature of the contract.
- [2] Claims against the tax consultant on the part of the client for loss or damage caused negligently, under the terms of the contract between them, shall be limited to EUR 1 million, which is four times the required minimum sum of insurance of EUR 250,000. The tax consultant confirms that he or she holds professional indemnity insurance with minimum cover amounting to four times the required minimum sum of insurance. Liability claims for destruction of life, personal injury or health damages are excluded from the limitation of liability.
- [3] Unless statutory legislation stipulates that a claim for damages on the part of the client is subject to a shorter period of limitation, it shall become statute-barred
- a) after a period of three years from the date on which the claim arose and the client became aware of the circumstances substantiating the claim and the identity of the party liable, or from the date on which they would have become aware of it in cases without gross negligence.
- b) regardless of the knowledge or lack of knowledge owing to gross negligence, after five years from its occurrence.
- c) regardless of its occurrence or the knowledge or lack of knowledge owing to gross negligence, after ten years from the commission of the action, the breach of duty or other event triggering the damage.
- [4] The terms agreed in paragraphs 1 to 3 shall also apply to persons other than the client if, by way of exception, a contractual relationship exists between the tax consultant and these persons.

5 Client's obligations

- [1] The client is obliged to cooperate with the tax consultant insofar as this is necessary for due and proper performance of the assignment. In particular, the client is obliged to provide the tax consultant with all documentation required for performance of the assignment, in due time so that the tax consultant has a reasonable period within which to complete the assignment. This also applies to notification of all incidents and circumstances which may be of significance for performance of the assignment.
- The client is obliged to take note of all written and verbal notifications made by the tax consultant and to submit queries in cases of doubt.
- [2] The client shall refrain from taking any action which might impair the impartiality of the tax consultant or his or her agents.
- [3] The client agrees to pass on the results of the tax consultant's work to third parties only with the tax consultant's written consent, unless consent to forward these results to a third party is automatically granted by the contents of the assignment.
- [4] If the tax consultant uses data-processing programs at the client's premises, the client is obliged to follow the tax consultant's instructions concerning installation and use of the programs. Furthermore, the client shall only be obliged and entitled to copy the programs to the extent specified by the tax consultant. The client is not permitted to disseminate the programs. The tax consultant remains the holder of the rights of use. The client shall refrain from taking any action which could prevent the tax consultant from exercising his or her rights of use in the programs.

6 Client's failure to cooperate and default of acceptance

Should the client fail to provide the cooperation which he or she is obliged to provide according to paragraph 5 above or any other form of obligatory cooperation, or if the client is in default with respect to acceptance of the services offered by the tax consultant, the tax consultant is entitled to set a reasonable deadline for rectification of the situation. If the deadline passes and the client has not fulfilled its obligations, the tax consultant may terminate the contract without notice [see section 9, paragraph 3]. This shall not affect the tax consultant's right to compensation for the additional costs incurred as a result of the client's failure to cooperate or default of acceptance, as well as the loss or damage caused, even if the tax consultant has not exercised his or her right to terminate the agreement.

7 Remuneration

- [1] The tax consultant's remuneration [fees and reimbursement of outlays] for his or her professional work pursuant to section 33 of the Tax Consultancy Act, shall be assessed according to the scale of charges for tax consultants, tax agents and tax advisory companies. Only section 9 para 1 sentence 1 of the Tax Consultancy Act shall not apply. Invoices will generally be sent in electronic format.
- [2] For work which is not covered by the above scale of charges [e.g. section 57, subsection 3, paragraphs 2 and 3 of the Tax Consultancy Act], remuneration shall be as agreed between the parties, otherwise the standard remuneration shall apply [section 612, subsection 2 and section 632, subsection 2 of the German Civil Code [BGB]].
- [3] The tax consultant may refuse to surrender his or her work or the client's documentation until such time as his or her fees and expenses have been satisfactorily settled. This shall not apply in circumstances where retaining the documents would constitute a breach of good faith on account of, for example, the unreasonable disadvantage caused or the relative insignificance of the sums owed. Until correction of any faults reported by the client within the specified period has been made, the latter shall be entitled to retain a reasonable portion of the remuneration.
- [4] Offsetting against another remuneration claim of the tax consultant is only permitted in the case of claims which are undisputed or have been established legally.
- [5] If the client is obliged to pay several due invoices, payments will be offset as follows:
- The first payment will be set off against the payable debt (main debt); in the case of several accounts receivable, against the oldest respective invoice. A payment which is not sufficient to settle all the invoices for remuneration due shall first be offset against the invoice amount, then against legal expenses and finally interest. Advances paid by the client remain unaffected by the above. Any alternative redemption clauses agreed by the client are ineffective.

8 Payments by direct debiting

If client and contractor agreed for the payment by SEPA direct debit scheme, a period of one day applies for the pre-notification. The payer is entitled to a refund of the paid amount for 8 weeks starting from the date on which the account was debited. The General Terms and Conditions of the bank shall apply.

9 Termination of the contract

- [1] The contract shall end upon fulfilment of the agreed services, by expiry of the agreed term, or by termination. The contract shall not end as a result of death, the client's inability to contract or – in the case of a company – as a result of the dissolution of the company.
- [2] An agreement concluded for an indefinite period can – if and to the extent that it represents a contract for services within the meaning of sections 611 and 675 of the German Civil Code – be terminated by either contracting partner in accordance with sections 626 ff. of the German Civil Code. Termination must be declared in writing. Where alternative conditions are to apply in a specific case, a written agreement is required which is to be separately drawn up and submitted to the client together with these General Terms and Conditions at signature of the contract.
- [3] If the contract is terminated by the tax consultant, in order to avert legal losses on the part of the client, the tax consultant must carry out whatever acts are reasonable and which cannot be deferred [e.g. application for the extension of a deadline which is about to expire]. The tax consultant is also liable for such actions as defined in section 4.
- [4] The tax consultant is obliged to return to the client all items which he or she receives or has received for performance of the assignment and which he obtains from business activities. Furthermore, the tax consultant is obliged to submit all necessary notifications to the client, to provide the client with on request information on the matter in hand, and to account for his or her actions.
- [5] Upon termination of the contract, the client must immediately return to the tax consultant any data-processing programs installed at its premises for the purpose of executing the assignment, including any copies made and any other program documentation, and delete the same from the hard disk.
- [6] Following termination of the contract, the documents must be collected from the tax consultant.

10 Remuneration claims in the case of premature termination of the agreement

In the event that the assignment ends before it has been completed, the tax consultant's remuneration claim shall be based on statutory regulations. Where alternative conditions are to apply in a specific case, a written agreement is required which is to be separately drawn up and submitted to the client together with these General Terms and Conditions at signature of the contract.

11 Place of performance

- [1] German law applies exclusively to the assignment, its performance and any associated claims.
- [2] Unless otherwise agreed, the place of performance is the place of the professional premises or the place of the foreign consultancy office of the tax consultant.

12 Place of jurisdiction

Insofar as merchants as defined in sections 1 ff. of the German Civil Code confront one another as client and contractor, the place of jurisdiction for them is the place of the professional premises or the place of the foreign consultancy office of the tax consultant.

13 Severability clause

- [1] If any individual provisions of these terms and conditions should be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provision is to be replaced by a valid provision that comes as close as possible to the original intent.
- [2] All amendments and additions to these terms and conditions must be made in writing. This also applies to any amendment to the clause relating to the written form.