

General Terms and Conditions of KWPS*

As of July 23, 2014

** In this translation an attempt has been made to be as literal as possible without jeopardising the overall continuity. In the event of discrepancies or ambiguity between the original Dutch version of the General Terms and Conditions of KWPS and this translation, the Dutch text shall prevail.*

General

1. KWPS B.V., hereinafter referred to as KWPS or contractor, is a private company with limited liability with the aim to pursue a consultancy practice in the areas of Pension, Employee Benefits, Tax and Financial Planning, also acting under the commercial name of (KWPS) Corporate Pension Solutions. Client is taken to mean the party placing an assignment.
2. These general terms and conditions shall apply to all assignments, any subsequent assignments, changed or additional assignments and all other tasks given to KWPS, its partners or the people employed by KWPS, as well as all legal relationships arising therefrom or related thereto. The applicability of any general terms and conditions of client is explicitly dismissed by KWPS.
3. All assignments shall be taken to mean best-efforts obligations and shall not mean result obligations. The fee shall not be subject to the outcome of the assignment placed.
4. All assignments are exclusively accepted and performed by KWPS, also in the event that it is the explicit or tacit intention that an assignment be performed by a particular person. Contrary to the articles 404; 407, paragraph 2; and 409 of Book 7 of the Dutch Civil Code, partners as well as those working at or for KWPS, whether or not in employment, are not personally bound or liable, neither shall the assignment cease to exist because of their death, or in the event that the assignment is placed with the intention to be carried out by a particular person.
5. Client shall be obliged to pay to KWPS a fee in accordance with the rates, calculation method and ways of working which are customary at KWPS. Expenses paid in the interest of the client shall be charged separately.
6. Payment by client shall be due without any deduction, discount or debt settlement, within the agreed payment period and be made by no later than 14 days after the invoice date. If client has not made the payment within aforementioned period, KWPS shall be entitled, after at least one reminder has been sent, to charge statutory interest from the due date without further notice of default and notwithstanding any other rights of KWPS. Further work may be suspended if no payment on account has been made to cover it.
7. Any objection relating to the work performed or dispute in respect of the accuracy of the invoices shall be made within 30 days of the date of dispatch of the documents or information in respect of which client is to file a complaint. The client's obligation to pay shall not be suspended.

8. The assignment shall be performed also in accordance with the applicable (professional) regulations. Client shall undertake to provide each and every time his full cooperation with the obligations for KWPS arising therefrom. All judicial and extrajudicial (collection) costs reasonably incurred as a result of non-compliance by client shall be for the account of client.

Liability

9. Any liability arising from or relating to the performance of an assignment shall be limited to a maximum of three times the fee incurred in connection with the assignment in the past 12 months, and to the amount paid out in the matter concerned under the professional liability insurance policy taken out by KWPS, plus the amount of the deductible which is not borne by the insurer under the policy conditions. If and insofar as, for whatever reason, no payment is made under the insurance policy referred to above, aforementioned liability shall be limited to three times the amount of the fee charged in connection with the assignment in the past 12 months, with a maximum of €100,000.
Contractor does not accept any liability for damages that arise as a result of the contractor being compliant with applicable laws and (professional) regulations.
10. Terms within which work must be performed are only considered to be final if this has been agreed in writing.
11. The assignment performed by KWPS does not include the safeguarding of any schemes and /or agreements to which KWPS may have made a contribution, unless KWPS has been explicitly instructed to do so and KWPS has accepted such an instruction in writing.
12. These general terms and conditions shall be stipulated in respect of every third party who, whether or not in employment, is involved in the performance of any assignment, or is or can be held liable in connection therewith.
13. The choice of third parties to be engaged by KWPS shall, where possible and reasonably required, take place in consultation with client and with due care. KWPS shall not be liable for any shortcomings on the part of these third parties. Client authorises KWPS to accept any conditions stipulated by third parties, also including limitations to liability. KWPS shall be entitled to rely on these conditions towards client insofar that it relates to the implementation of the assignment by such third party.

14. The execution of assignments placed shall solely be undertaken for the benefit of client. Third parties shall never be entitled to derive a right from the contents of the work performed. Unless explicitly accepted in writing by KWPS, persons other than client shall never be able to rely on the result or implementation of the work carried out for client.
15. If client submits the contents of the work carried out for him by KWPS to a third party, client shall be bound towards KWPS to notify such third party that the work was carried out under applicability of these general terms and conditions. If a third party makes use of the contents of such work, this third party shall also be bound to the provisions stipulated in these general terms and conditions.
16. Claims to compensation or any other claim or right for whatever reason with respect to KWPS shall lapse if it has not been submitted to KWPS within twelve months after discovery, unless under applicable law such claims or rights have lapsed at an earlier time.

Data and information

17. KWPS undertakes to maintain confidentiality towards third parties not involved in the performance of the assignment in respect of the data and information provided by or on behalf of client. This obligation shall not apply insofar as KWPS has a statutory or professional obligation to disclosure, including the obligations arising from the Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en de financiering van terrorisme (Wwft)*) and other national or international regulations to that effect, or insofar as client has relieved KWPS of its duty of confidentiality.
18. Client shall be responsible for compliance with the applicable laws and regulations on data protection, including the provision and making available of personal information to KWPS relating to client's staff, clients or third parties, also in the event that this information is from or provided by third parties on instruction of client. KWPS cannot be held liable in respect of non-compliance or incorrect compliance by client.
19. Client shall undertake to provide all data and information, including the data and information of which client can reasonably know that KWPS shall need them for the correct execution of the assignment, on time and in the form and manner required by KWPS.
20. Client shall guarantee the accuracy, completeness, reliability and legitimacy of the data and information provided to KWPS by him or on his behalf, also in the event that the data and information have been provided or received through third parties.

21. Client shall undertake to notify KWPS without delay of facts and circumstances which may affect the performance of the assignment.
22. KWPS shall reserve all rights relating to products of the intellect, including advice, ways of workings, (model) contracts, systems, system designs and computer programmes that KWPS has developed or used within the framework of the assignment, insofar as they are not already reserved by third parties, and it is prohibited to publish, reproduce or use them without prior approval from KWPS.

Final provisions

23. Both client and KWPS shall be entitled to terminate the agreement at any time with due observance of a reasonable notice period. If client has terminated the contract (prior to completion), KWPS shall be entitled to compensation for the loss resulting from lower capacity utilisation as well as for any additional costs which KWPS has reasonably incurred or has to incur, for which it shall need to provide supporting information, as a result of the early termination of the agreement, except if the termination was motivated by facts and circumstances that can be attributed to KWPS.
24. If any stipulation as part of these general terms and conditions should be declared void or annulled, the remaining stipulations of these general terms and conditions shall continue to be in force as much as possible, and the stipulation in question shall in joint consultation be replaced without delay by a stipulation that corresponds as much to the original stipulation as possible.
25. Every legal relationship arising from or related to the agreement between client and KWPS shall be governed by the law of the Netherlands. Any dispute shall be submitted to the exclusive jurisdiction of the competent court in Amsterdam, the Netherlands.
26. The original Dutch version of these general terms and conditions is registered with the Dutch Chamber of Commerce in Amsterdam under number 34248760.
