



## GENERAL TERMS SEC AUDIT CLIENTS

### **DEFINITIONS**

The meaning of the following words and phrases, which are widely used in these General Terms shall be as set out below and shall apply wherever used in the Services Contract.

**Client or You** (and derivatives): the addressee (or addressees) of the Engagement Letter, contracting with **KPMG TAX SERVICES**.

**Engagement Letter**: a letter recording the engagement and enclosing these General Terms.

**KPMG TAX SERVICES or we** (or derivatives): KPMG TAX SERVICES CVBA/SCRL having its registered seat at 1930 Zaventem, Luchthaven Brussel Nationaal 1K, with corporate registration number 0474.483.913.

#### **KPMG-Persons:**

KPMG TAX SERVICES CVBA/SCRL, our partners, **members of the Board of Directors, employees, collaborators (self-employed or not), both individually and jointly, together with any other member firm** that forms part of the KPMG network and each and all of its partners, members of the Board of Directors, employees, agents, collaborators (self-employed or not) both individually and jointly; "**KPMG Person**" shall mean any one of them.

**Engagement Team**: shall mean, jointly or individually, KPMG Persons who are involved in delivering the Services.

**Other KPMG Persons**: shall mean, jointly or individually, KPMG persons who are not members of the Engagement Team.

**Party(ies)**: KPMG TAX SERVICES or/and the Client.

**Barriers**: shall mean safeguards which may be available to us to facilitate the protection of clients' interests, including, for example, use of separate teams, their geographical and operational separation and/or access controls and limitations to data, computer servers and electronic mail systems.

**Services**: the professional services to be delivered by us under the Engagement Letter.

**Services Contract**: these General Terms and the Engagement Letter, together with any documents to which specific reference is made in the Engagement Letter.

### **Article 1: SCOPE**

These General Terms apply to all professional relationships between KPMG TAX SERVICES and its Client, notwithstanding any Client's general terms even if more recent, unless explicitly accepted, totally or partially, in writing by KPMG TAX SERVICES. Any amendments to KPMG TAX SERVICES' General Terms are only possible to the extent they have been explicitly agreed in writing and signed by an authorized representative of each contracting Party.

The Services Contract sets out the entire agreement and understanding between the Parties, with respect to the obligations of KPMG TAX SERVICES, in connection with the Services and, supersedes all arrangements and understandings previously agreed by them either in writing, or orally, or tacitly.

### **Article 2: FORMATION OF THE SERVICES CONTRACT**

The Services Contract between KPMG TAX SERVICES and the Client is deemed to have been entered into either when KPMG TAX SERVICES receives the Engagement Letter, duly signed by the Client, or at the moment KPMG TAX SERVICES starts to perform any Services upon request of the Client, if this takes place at an earlier moment. As long as KPMG TAX SERVICES does not receive any Engagement Letter duly signed by the Client, all professional relationships between KPMG TAX SERVICES and the Client will in any case be governed by the Services Contract, as from the moment that and insofar as such Services Contract has been delivered to the Client either by letter, telefax, email or if by hand, against acknowledgement of receipt.

### **Article 3: INFORMATION SUPPLIED BY THE CLIENT TO KPMG TAX SERVICES**

To enable KPMG TAX SERVICES to perform the Services, the Client shall provide it in due time with assistance as well as with correct, complete and reliable data and documents, even if such information originates from third parties. Unless explicitly specified in writing, KPMG TAX SERVICES will not verify the data and documents it has been provided with by the Client. KPMG TAX SERVICES may claim additional fees and/or outlays resulting from any delay in performing the Services, as a consequence of the Client having failed to comply with the provisions of this article 3.

The Client shall inform KPMG TAX SERVICES of any information or developments which may come to its notice and which might have a bearing on the Services.

In as much as possible, the Client will provide KPMG TAX SERVICES with copies of all above-mentioned data and documents. If necessary for the performance of the Services, data and documents are provided in original by the Client to KPMG TAX SERVICES, the Client must keep a copy thereof.

KPMG TAX SERVICES may rely on any instructions or requests made or notices given or information supplied, whether orally or in writing, by any person whom it knows to be or reasonably believes to be authorized by the Client to communicate with it for such purposes.

KPMG TAX SERVICES may receive information from the Client or from other sources in the course of delivering the Services. KPMG TAX SERVICES shall not be liable for any loss or damage suffered by the Client arising from fraud, misrepresentation, withholding of information relevant to the Services or other default relating to such information, whether on the Client's part or that of the other information sources, unless detection of such fraud, misrepresentation, withholding or such other default is evident to KPMG TAX SERVICES without further enquiry.



#### **Article 4: PERFORMANCE OF THE ENGAGEMENT**

KPMG TAX SERVICES decides how and by whom the Services will be performed. The Services shall be delivered with reasonable skill and care based on the information supplied to us.

Where individuals to be involved in delivering the Services are named in the Engagement Letter, KPMG TAX SERVICES shall use reasonable endeavors to ensure that they are so involved. KPMG TAX SERVICES may substitute those identified for others of equal or similar skills.

In case the Client wishes to involve third parties in the performance of the engagement, it may only do so after having agreed on this in writing with KPMG TAX SERVICES.

During the performance of the engagement, the approach, the working method or the scope of the engagement and/or of the work resulting thereof can be amended or expanded in mutual consultation. Should such an amendment or expansion result in additional work, KPMG TAX SERVICES will inform the Client accordingly and the related additional fees and outlays will be charged to the Client.

KPMG TAX SERVICES shall not be under any obligation to update any advice, report or any product of the Services, oral or written, for events occurring after the advice, report or product concerned has been issued in final form except where we have expressly agreed to provide such an update during the term or our engagement as a result of changes to e.g. law, regulation, jurisprudence or doctrine.

Any advice, opinion, statement of expectation, forecast or recommendation supplied by us as part of the Services shall not amount to any form of guarantee that we have determined or predicted future events or circumstances.

Notwithstanding KPMG TAX SERVICES' duties and responsibilities in relation to the Services, the Client shall retain responsibility and accountability for:

- the management, conduct and operation of its business and its affairs;
- deciding on its use of, choosing to what extent it wishes to rely on, or implementing advice or other product of the Services supplied by KPMG TAX SERVICES;
- making any decision affecting the Services, any product of the Services, its interests or its affairs;
- the delivery, achievement or realization of any benefits directly or indirectly related to the Services, which require implementation by the Client.

The Client's management will designate a Project sponsor who has the requisite skills and competencies for overseeing the services being provided.

Unless otherwise explicitly agreed upon in writing, the performance of the engagement does not authorize KPMG TAX SERVICES to represent the Client. Such representation authority requires a specific power of attorney, in writing, to be given by the Client to one or several duly authorized representative(s) of KPMG TAX SERVICES, and accepted by

the latter.

#### **Article 5: REMOTE ACCES AND ELECTRONIC DATA TRANSMISSION**

KPMG TAX SERVICES is authorized to make use of Your local network and Your internet in order to connect to the KPMG network (also called: "Remote Access via Internet"), during the performance of the Services. Immediately after connecting to Your local network, we will establish a direct connection (known as a VPN connection), which will create a separate network from Your network. Any associated risks will be restricted to a minimum because of the security measures that we take (including a firewall, a virus scanner and anti-spyware scanner). We do not accept any liability for any damages resulting from the use of Remote Access via Internet.

KPMG TAX SERVICES is authorised to communicate with You via e-mail (this also applies for communicating the Results of the Services). By approving this method of communication, You accept the inherent risks of this medium (including the risk of interception of messages or non-authorized access to messages sent via e-mail, the risk of corrupted messages and the risk of viruses or other damaging elements) and that You will perform virus scans.

#### **Article 6: CONFIDENTIALITY**

KPMG TAX SERVICES shall treat all information provided to it either prior to or in the course of delivering the Services as confidential according to the legal and professional confidentiality standards applicable to Belgian tax advisers. This clause shall not prohibit KPMG TAX SERVICES' disclosure of information if it is so required or permitted pursuant to legal or professional regulations, e.g., in disciplinary, civil or criminal proceedings.

The Client acknowledges and agrees that, to the extent permitted by law, information related to the Services (including confidential information) may be disclosed to KPMG International, other KPMG Persons, external legal advisors, and/or other parties who facilitate the administration of our business or support its infrastructure that assist us:

- in the execution of the Services;
- in performing internal risk assessments and in supporting the maintenance of quality and professional standards in the conduct and delivery of services (e.g. quality reviews of the services delivered to identify and mitigate any KPMG quality, conduct or related risk management issues, facilitate requests by regulators or the establishment and maintenance of knowledge databases);
- in the execution of client and engagement acceptance procedures (including but not limited to the identification of potential conflicts of interest or compliance with independence requirements).

You acknowledge and agree that any product of the Services released to you in any form or medium shall be supplied by us on the basis that it is for your benefit and use only. You agree that, if you refer or disclose in whole or in part any product of the Services to any third party, you will notify such third party in writing as follows: that our product of the Services for you, has



been supplied to you for your sole benefit and use based on your specific facts and circumstances and pursuant to the terms of this Services Contract; that it is not intended to be, and may not be, relied on by any other person and that to the fullest extent permissible by law we accept no responsibility or liability to that party in connection with the Services.

#### **Article 7: INTELLECTUAL PROPERTY**

All rights, titles and interests, including but not limited to, all intellectual property rights such as copyrights that arise and / or may arise in connection with the performance of the Services, including, without limitation, all rights to preparatory material (such as our working papers), on intermediate and / or final products or results of the Services, regardless of their form (oral, written or otherwise), as well as all knowledge, experience and skills acquired in the performance of the Services, are and will remain the sole property of KPMG TAX AND LEGAL ADVISERS at all times. Without prejudice to the foregoing, the Client will only acquire a (material) title on one or more physical or digital copies of any product or result of the Services in tangible form after payment of our Charges for the relevant products or results. As part of our services to you or to other Clients, we, the Engagement Team and all Other KPMG Persons are authorized to use, develop and share with each other knowledge, experience and skills gained through performing the Services.

#### **Article 8: OUR CHARGES**

KPMG TAX SERVICES shall render fee notes in respect of the Services comprising fees, outlays and taxes thereon (where appropriate) (hereafter "our Charges"). Our Charges and any special payment terms shall be set out in the Engagement Letter. Unless otherwise explicitly agreed upon in writing, fees shall be based on the degree of responsibility of the persons involved in delivering the Services, their skill and time spent in performing the Services as well as the nature and complexity of the latter. Outlays will include both directly incurred costs, including expenses incurred with third parties, and an amount that may be determined as a percentage of the fees, to cover incidental expenses, which are not charged directly to the engagement.

Our Charges may differ from estimates or quotations that may have been supplied, for example where additional fees and outlays arise from any delay as a result of failure to supply information required to enable KPMG TAX SERVICES to perform the Services.

Where KPMG TAX SERVICES is required or requested to provide information in respect of the Client pursuant to a regulatory request, requirement or through any form of legal proceedings, the Client agrees to reimburse KPMG TAX SERVICES for the costs (including fees and costs of our legal advisers) KPMG TAX SERVICES and its personnel incur in relation to such requirement, request or proceeding, where KPMG TAX SERVICES' actions were not also the subject of such requirement, request or proceeding.

#### **Article 9: PAYMENT AND PAYMENT TERMS**

Invoices are payable by the Client upon receipt without any right of deduction or set-off, unless explicitly agreed in writing to the contrary or unless mandatory legal payment terms apply.

The Client shall pay our Charges, without any right of deduction or set-off, within the term indicated on the fee notes, but by no means later than thirty days after receipt of the fee notes.

The date of receipt of the fee notes is fixed at the first day, following the date mentioned on the fee notes.

Unless otherwise explicitly agreed upon in writing, any payments by the Client are to be made in Euros.

In case of default, KPMG TAX SERVICES is entitled to charge interest on any outstanding balances at the interest rate fixed by the Law of August 2, 2002 aiming at decreasing payment arrears.

By virtue of the law referred to above, any overdue payment will also entitle KPMG TAX SERVICES, without issuing any default notice, to claim damages for all recovery outlays incurred, which will amount to 15 % of the fee notes except if KPMG TAX SERVICES can prove that higher damages have been incurred.

If the Services Contract is terminated or suspended, KPMG TAX SERVICES shall be entitled to payment for outlays incurred to that time and to payment of fees for work done, plus taxes thereon (where appropriate). The fees for work done shall in this event be calculated by reference to the parameters referred to in article 8 of these General Terms, applicable at the time of performance of our Services.

Where there is more than one addressee of the Engagement Letter, unless provision is made in the Engagement Letter for payment of our Charges by one of the addressees or by a third party, all of the addressees shall each be fully jointly and severally liable to pay our Charges, as well as any related interest and damages.

#### **Article 10: KNOWLEDGE AND CONFLICTS**

The Engagement Team shall not be required, expected or deemed to have knowledge of any information known to Other KPMG Persons which is not known to the Engagement Team or be required to obtain such information from Other KPMG Persons.

The Engagement Team shall not be required to make use of or to disclose to You any information, whether known to them personally or known to Other KPMG Persons, which is confidential to another client.

KPMG Persons may provide services or be approached to provide services for one or more parties with interests conflicting with Your interests or that have interests that compete with Yours ("Party or Parties with a Conflict of Interest"). If You know or become aware that a KPMG Person is advising or proposing to advise a Party or Parties with a Conflict of Interest, You must inform us promptly.

KPMG persons are and remain free to provide services to a Party or Parties with a Conflict of Interest. If the interests of the Party or Parties with a Conflict of Interest, specifically and directly with regard to the Services, are in conflict with Your interests and You have informed us hereof, then:



- The Engagement Team shall not provide services to the Party or Parties with a Conflict of Interest; and
- Other KPMG persons shall only provide services to the Party or Parties with a Conflict of Interest when adequate Barriers have been implemented. The effectiveness of these Barriers means that we have taken sufficient steps to avoid any real risks of damaging our confidential relationship of trust with You.

#### **Article 11: LIMITATION OF LIABILITY**

Our liability in connection with the Services Contract is limited in accordance with the provisions of the present article.

To the fullest extent permitted by applicable law,

- a) the aggregate liability of all KPMG Persons towards Client,
- b) arising in any way and on any basis, and irrespective of its legal basis,
- c) for any damage arising from or in connection with the Services Contract,
- d) regardless of the cause of loss or damage, including negligence and serious fault ("*zware fout/faute grave*")

is limited to an amount of 3 (three) times the fees agreed with KPMG TAX SERVICES in accordance with the terms of the Services Contract. However, if the Services Contract is a framework agreement under which Services have to be supplied upon demand, and damages arising from or in connection with such a specific Service, our aggregate liability, as defined above, will be limited to an amount of 3 (three) times the fees charged by KPMG TAX SERVICES for such a specific Service.

The limitation of liability set out above is not applicable in the event that KPMG TAX SERVICES has committed a fault with fraudulent intent ("*bedrieglijk opzet/ intention frauduleuse*") or willful misconduct ("*met het oogmerk om te schaden/ à des fins de nuire*").

Unless otherwise mandatory provided by law, KPMG Persons cannot be held liable for indirect damages, such as but not limited to, financial and commercial losses, loss of profits, increase of general costs, interruption of the planning, loss of the expected profit, capital, clients, etc.

Where there is more than one addressee indicated in the Engagement Letter, the limitation on our liability agreed under this article to each addressee shall be apportioned by them amongst them. No addressee shall dispute or challenge the validity, enforceability or operation of this clause on the ground that no such apportionment has been so agreed or on the ground that the agreed share of limitation amount apportioned to any addressee is unreasonably low.

#### **Article 12: SUSPENSION AND TERMINATION**

If the Client is in breach of either executing or fulfilling correctly and/or in due time any of its obligations, KPMG TAX SERVICES is entitled to suspend the performance of the Services until the Client will have fully complied with its obligations. KPMG TAX SERVICES is also entitled to suspend the performance of the Services if, for any other engagement

contracted with KPMG TAX SERVICES, the Client either has not executed, or has executed its obligations partially, incorrectly or with delay.

Either party can terminate the Services Contract by giving a reasonable notice term. Notices must be notified to the other Party(ies) by registered mail.

KPMG TAX SERVICES is entitled to terminate the Services Contract immediately without notice term, without payment of any compensation and without any prior judicial intervention, in any of the following cases:

- if the Client commits a breach of contract, such as, but not limited to, the provision of incorrect or incomplete information, late provision of necessary information to KPMG TAX SERVICES, the absence of payment of our Charges;
- if KPMG TAX SERVICES has serious reasons to believe that the Client will fail to observe the agreement in the future, such as, but not limited to, a Client's request for extension of payment, bankruptcy, winding-up or liquidation of the Client.

KPMG TAX SERVICES will under all circumstances remain entitled to the payment of the Charges relating to work done and of the fee notes for the Services performed, as set out in article 8 of these General Terms.

#### **Article 13: INDEMNIFICATION**

You shall indemnify us and hold us harmless against any loss, damage, expense or liability incurred by us as result of, arising from or in connection with the following circumstances:

- Any breach by you of your obligations under the Services Contract and any claim made or threatened by a third party which results from or arises from or is connected with any such breach, or
- Any disclosure, in whole or in part, by you of the product of the Services to a third party made without the notification set out in article 6 above with respect to the sole benefit and use of the product of the Services, unless we have agreed with such a third party to accept responsibility and liability to that third party in respect of the Services and the product disclosed to them by you.

#### **Article 14: PROCESSING OF PERSONAL DATA**

The definitions and interpretations in 1) the applicable European privacy legislation (including Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and 2) the applicable national privacy legislation (including but not limited to the Belgian Law of 30 July 2018 concerning the protection of natural persons with regard to the processing of personal data) as they are in force now and as they can be changed, supplemented or replaced in the future (hereinafter jointly referred to as "Privacy Legislation") are applicable to this article.

This article applies to the processing of personal data in connection with the Services and/or the Engagement Letter.



You warrant that the personal data which You transfer to KPMG (i.e. KPMG, other KPMG Persons and/or third parties supporting KPMG) in connection with the execution of the Services and the Engagement Letter, will be collected and/or processed by You in accordance with the provisions and principles of the Privacy Legislation and any other applicable legal regulation.

In principle, KPMG determines alone the purpose and the means for the processing of personal data in connection with the execution of the Services. As such, KPMG will process the received personal data as controller in accordance with the provisions of the Engagement Letter, the Privacy Legislation and KPMG's privacy statement which can be found at the following link <https://home.kpmg/be/en/home/misc/privacy.html>.

KPMG will take appropriate technical and organizational measures in order to protect the personal data against unauthorized or unlawful processing and against accidental loss, destruction of or damage to the personal data, in accordance with the Privacy Legislation.

KPMG can transfer personal data for the execution of the Services to other KPMG Persons and/or to third parties that support KPMG who will also take necessary and appropriate technical and organizational measures to protect personal data. Moreover, the received personal data can, amongst others, be communicated to and used by other KPMG Persons and/or third parties that support KPMG in view of compliance and regulatory requirements (amongst others anti-money laundering legislation), risk management and quality control of the Services delivered by KPMG, as well as for client and relation management.

In the event of loss of personal data, data breach or performance of a data protection impact assessment, You will respond to any reasonable request for assistance from KPMG.

Parties shall notify each other promptly: (i) upon receiving a request from a data subject, or if they receive any claim, complaint or allegation relating to the processing of personal data; (ii) upon becoming aware of any breach leading to the destruction, loss or unlawful disclosure of personal data in their possession.

You will notify KPMG promptly if You acquire knowledge of an infringement of the Privacy Legislation regarding the processing of the aforementioned personal data.

In certain circumstances, KPMG acts as processor in connection with the execution of the Services and/or the Engagement Letter. As such, KPMG will attach a data processing agreement to the Engagement Letter and will process personal data on Your behalf and on Your written instructions, in compliance with the provisions of the data

processing agreement, the Privacy Legislation and, where applicable, the Engagement Letter.

#### **Article 15: DISPUTES**

Any complaint related to the Services performed or to our Charges must be communicated in writing to KPMG TAX SERVICES, either within 30 days as from the sending date, by KPMG TAX SERVICES, of the information and/or documents disputed by the Client, or within 30 days upon discovery of the mistake, provided that the Client demonstrates that such mistake could not have been discovered earlier. Any such dispute does not suspend the Client's payment obligations.

If a complaint is considered to be well-founded, KPMG TAX SERVICES may decide, at its sole discretion:

- either to adjust the amount of the fee notes issued, or
- to correct, free of any charge, the Services performed, or
- to perform again the Services disputed by the Client, or
- to cancel, totally or partially, the engagement with a proportional refund of the charges paid by the Client.

Unless explicitly otherwise agreed upon in writing, the period during which any complaint can be made by the Client against KPMG TAX SERVICES expires six months as from the moment the client knew of the facts giving rise to said complaint, or should reasonably have known thereof.

#### **Article 16: SEVERABILITY**

Each clause or term of the Services Contract constitutes a separate and independent provision. If any court or authority of competent jurisdiction judges any of the provisions of the Services Contract to be void or unenforceable, the remaining provisions shall continue in full force and effect.

#### **Article 17: WAIVER**

Any failure by KPMG TAX SERVICES to enforce one of its rights or prerogatives under the Services Contract, or any failure by KPMG TAX SERVICES to react to a default or breach by the client of all or any parts of the provisions of the Services Contract shall not constitute a waiver by KPMG TAX SERVICES of any of its rights there under.

#### **Article 18: APPLICABLE LAW AND DISPUTE RESOLUTION**

Solely Belgian law will govern the professional relationships between the Parties to which these General Terms apply.

All disputes related thereto will be submitted exclusively to the courts within the judicial area in which KPMG TAX SERVICES has its registered office.