

# General Terms and Conditions



These are the General Terms and Conditions of **Phileas80 B.V.** (hereinafter referred to as 'the General Terms and Conditions') of Phileas80 B.V. (hereinafter referred to as 'Phileas80'). Phileas80 is an innovative business service provider in the financial, tax, legal and human-resource markets. These General Terms and Conditions apply to all services provided by Phileas80 (hereinafter referred to as 'Service' or 'Services').

The Client agrees to these General Terms and Conditions and irrevocably accepts them by sending a statement to this effect to Phileas80. Without the Client's acceptance of these General Terms and Conditions, Phileas80 will not provide Services.

## Article 1 – Definitions

The following terms are defined as stated below:

- 1.1. **Client:** the legal entity – a juridical or natural person – that engages Phileas80 to provide a Service.
- 1.2. **General Terms and Conditions:** the terms and conditions laid down in the following articles that apply to all business services to be provided by Phileas80 as well as to all Proposals.
- 1.3. **Parties:** Phileas80 and the Client.
- 1.4. **Service:** every business service provided by Phileas80, including any supply of information, particularly in the Human-Resource (HR), Payroll and Financial including tax, legal and social security.

## Article 2 – Scope of Application

- 2.1. These General Terms and Conditions govern all legal relationships between the Parties. Unless the Parties agree differently in a contract, all provisions of these General Terms and Conditions are fully and unconditionally in force. The general terms and conditions of the Client do not govern any legal relationship between the Parties. If necessary, the Parties will also conclude a data processing agreement for the processing of the Client's personal data by Phileas80 and by any third party or third parties engaged by Phileas80.
- 2.2. The Client must accept these General Terms and Conditions in writing, which includes by email. If these are not accepted in this way, the Client is assumed to accept the applicability of these General Terms and Conditions with respect to Proposals made to the Clients, engagements awarded by the Client to Phileas80 for the provision of services and contracts concluded by the Client with Phileas80 at a later date.
- 2.3. Phileas80 is entitled to amend these General Terms and Conditions. Any amendment to these General Terms and Conditions becomes effective at the announced date of entry into force and, in the absence of such a date, at the time the amendment has been communicated or has become known to the Client. Before the date of entry into force, Phileas80 will submit the amended General Terms and Conditions to the Client, which may also be done by email.

## Article 3 – Proposals

- 3.1. All Proposals made by Phileas80 for the provision of a Service are without obligation, unless the proposal includes a period for acceptance and is duly signed by Phileas80. In the absence thereof, no rights can be derived from the proposal in any way if the Service to which the proposal relates is no longer available.
- 3.2. Phileas80 cannot be held to a proposal if the Client should reasonably understand that the proposal, or any part thereof, contains an obvious typographical error or another mistake.
- 3.3. The prices mentioned in the proposal are exclusive of VAT and other government levies and any costs incurred for the purposes of the contract, including travel and accommodation expenses, postage and handling, unless otherwise stated.

- 3.4. Phileas80 is not bound by any stipulations in the Client's acceptance of the proposal that deviate from the stipulations in this proposal, even if these deviations concern minor points. In that case, these deviations in the acceptance are not part of the contract between Phileas80 and the Client that is concluded, unless Phileas80 decides differently.
- 3.5. A composite price quotation does not require Phileas80 to provide only a proportion of the services at a corresponding proportion of the price quoted. Proposals do not necessarily apply to future orders.

### **Article 4 – Contract**

- 4.1. The contract is concluded when the proposal or the confirmation of the engagement signed by Phileas80 and the Client has been returned to and received by Phileas80. The contract is entered into for an indefinite period, unless the nature of the contract dictates otherwise or if the Parties expressly agree otherwise.
- 4.2. Monthly HR, Payroll and/or Finance services including monthly support and advisory services are concluded for a minimum period of 1 year with a notice period of 3 months. The contract will automatically be extended for a minimum period of 1 year.
- 4.3. The fee payable to Phileas80 does not depend on the result of the Service provided.
- 4.4. Phileas80 does not use any strict non-compliance deadlines for the provision of any Service. If any deadline promised or agreed upon is not met, the Client is always required to serve a written notice of default on Phileas80. In doing so, the Client has to proposal Phileas80 a reasonable cure period.
- 4.5. Phileas80 is entitled to engage third parties to carry out work. Articles 404, 407(2) and 409 of Book 7 of the Dutch Civil Code expressly do not apply. If Phileas80 or third parties engaged by Phileas80 carry out any work for the purpose of providing the Service at the Client's location or at a location designated by the Client, the latter shall provide the facilities reasonably required by the relevant employees of Phileas80 or the third parties engaged by Phileas80 at no cost.
- 4.6. If any contract is amended, which includes a supplement thereto, Phileas80 is entitled to perform the amended contract only after it has been approved by a duly authorised person within Phileas80 and after the Client has accepted the price and other conditions determined for the performance of the contract, including the date by which the contract is to be performed. The failure to perform the amended contract or to perform it immediately does not constitute a breach of contract by Phileas80 and it is not a ground for the Client to terminate the contract by notice or to cancel it.
- 4.7. Without it being in default as a result thereof, Phileas80 may refuse a request to amend the contract should this amendment influence the work to be performed or the items to be delivered under the contract, whether in terms of quality or in terms of quantity.

### **Article 5 – Quality, privacy, information and confidentiality**

- 5.1. Phileas80 will perform the contract for services to the best of its ability and exercise the due care that may be expected from a business service provider, with due observance of the laws and regulations applicable to Phileas80 and to the persons performing the work. Phileas80 can never be held liable for any act or omission that is contrary to or inconsistent with the foregoing laws and regulations. The Client agrees to fully respect the obligations that arise for Phileas80 under these laws and regulations.
- 5.2. Phileas80 agrees to process personal data carefully and in line with the relevant laws and regulations, such as the Dutch Personal Data Protection Act. With respect to its legal relationship with the Client, Phileas80 acts as the processor within the meaning of the Personal Data Protection Act, while the Client is to be considered the controller within the meaning of this Act. Phileas80 has taken technical and organizational measures, inter alia, for the purpose of protecting personal data.
- 5.3. The Client shall ensure that all data he/she/it supplies to Phileas80 and in respect of which Phileas80 has stated that they are necessary or in respect of which the Client reasonably should

understand that they are necessary for the performance of the contract are accurate, up-to-date, complete and that these data are supplied in a timely fashion. If the data required for the performance of the contract are not accurate, up-to-date, complete or have not been supplied to Phileas80 in a timely fashion, Phileas80 is entitled to suspend the performance of the contract and/or to charge the additional costs arising from this delay to the Client according to the rates applicable at that time. The period for performance does not commence until after the Client has supplied the data to Phileas80.

- 5.4. In the event of any electronic supply of data, the Client shall ensure that this supply of data to Phileas80 is free from any computer viruses and without any other software code with unwanted and/or hidden functionality. The Client agrees to indemnify Phileas80 against any third-party claims with respect to such data supply.
- 5.5. Phileas80 shall observe confidentiality towards third parties with respect to information, such as electronic or non-electronic documents and personal data, of which it becomes aware as a result of its processing of data for the Client for the purpose of performing the contract. Phileas80 shall also impose this duty on its employee and any persons or organizations engaged by it for this purpose. This duty of confidentiality pursuant to this article continues to exist after the termination of the contract.
- 5.6. In specific circumstances, Phileas80 is required by law to provide information received from the Client to a specific government agency or supervisory authority, either on its own initiative or at the request of competent authorities. In specific circumstances, Phileas80 may also be required not to disclose this supply of information to the Client.
- 5.7. Phileas80 agrees to inform the Client of any personal data leak for which the Client is the controller and that is processed by Phileas80 or any third party engaged by Phileas80 immediately upon its discovery.

### **Article 6 – Claims**

- 6.1. Claims relating to the quality of the Service and/or the invoice amount must be lodged with Phileas80 within sixty (60) days of the date of dispatch of the documents or information to which the Client's claim relates or within sixty (60) days of the date of discovery of the defect if the Client proves that he/she/it could not reasonably have discovered the defect any earlier.
- 6.2. Claims as defined in paragraph 6.1 do not suspend the Client's payment obligation.
- 6.3. If the claim is justified, Phileas80 may choose between adjusting the fee charged to the Client for the Service, improving or reperforming the rejected Service free of charge or refraining from performing the Service wholly or partly, in exchange for a refund in proportion to the payment the Client has already made.

### **Article 7 – Suspension, termination by notice and rescission of the contract**

- 7.1. The Client and Phileas80 may always give notice to terminate the contract by registered letter addressed to the other party. If the contract is terminated, the claims of Phileas80 against the Client are immediately due and payable. If Phileas80 suspends the performance of the obligations, it retains its claims arising from the law and the contract.
- 7.2. If Phileas80 suspends the performance of the contract or rescinds it, it is by no means liable to compensate any loss or costs arising as a result thereof. If this rescission is imputable to the Client, Phileas80 is entitled to compensation for the loss sustained, including any direct and indirect costs arising therefrom.
- 7.3. If the Client fails to perform the obligations arising under the contract and this non-performance justifies rescission, Phileas80 is entitled to rescind the contract with immediate effect without being liable in any way to pay damages or any other compensation, while the Client is liable to pay damages or other compensation by reason of breach of contract.

- 7.4. If Phileas80 terminates the contract prematurely, Phileas80 shall ensure, in consultation with the Client, that the work still to be performed is transferred to third parties, unless this termination is imputable to the Client. If Phileas80 must incur extra costs for the transfer of the work, it will charge these to the Client. The Client is required to pay these costs within the period specified, unless Phileas80 indicates otherwise.

### **Article 8 – Force majeure**

- 8.1. Phileas80 is not required to perform any obligation towards the Client if it is prevented from doing so as a result of any circumstances that are not attributable to fault, and for which Phileas80 is not responsible by virtue of the law, any juridical act or according to generally accepted standards.
- 8.2. For the purposes of these General Terms and Conditions, 'force majeure' means any event or situation beyond the control of Phileas80 which temporarily or permanently prevents the performance of obligations towards the Client, either wholly or partly, or as a result of which Phileas80 cannot reasonably be expected to perform such obligations, irrespective of whether the event or situation was foreseeable at the time of the conclusion of the contract, such as fire, accidents, labour unrest and any complete or partial failure to perform, on whatever ground, by third parties engaged by Phileas80.

### **Article 9 – Invoicing and payments**

- 9.1. Phileas80 invoices at the time the engagement is awarded. Electronic invoicing by email is the general rule. The Client must pay the entire claim within fourteen (14) days of the invoice date in a manner specified by Phileas80 in the currency of the invoice, unless otherwise stated by Phileas80 in writing. Phileas80 is entitled to invoice at regular intervals as well to require an advance payment.
- 9.2. The Client is not entitled to set off or suspend any payment obligation on any ground whatsoever. Objections to the invoice amount do not suspend the payment obligation. The Client that is not entitled to invoke Part 6.5.3 (Articles 231 to 247 of Book 6 of the Dutch Civil Code) is not entitled to suspend the payment of any invoice for any other reason either.
- 9.3. If the Client fails to pay an invoice in a timely fashion, the Client is in default by operation law. The Client will then owe interest at a rate of 1% per month unless the statutory interest rate is higher, in which case the Client owes the statutory interest. The interest on the amount due is calculated with effect from the time the Client is in default until the date on which payment is made in full.
- 9.4. Phileas80 has the right to use the payments made by the Client first to reduce the costs, then to reduce any interest that has fallen due and finally to reduce the principal sum and any current interest. Without being in default as a result thereof, Phileas80 may refuse a payment proposal if the Client proposes to allocate the money in a different sequence.
- 9.5. If the Client fails or defaults in the performance of his/her/its obligations, all reasonable extrajudicial collection costs must be borne by the Client. The extrajudicial costs are calculated based on what is common in Dutch collection practice, which, at this juncture, is the calculation method under the Voorwerk II Report. If, however, Phileas80 has incurred higher collection costs which were reasonably necessary, the actual costs incurred are recoverable. Any judicial and execution costs will be recovered from the Client as well. In addition, the Client will also owe interest on the collection costs.

### **Article 10 – Intellectual property**

- 10.1. Phileas80 reserves the rights and powers vested in it under the Copyright Act and other laws and regulations in the field of intellectual property, which it exercises or has exercised for the purposes of the provision of the Service to the Client, to the extent that these arise from the law or from license or other agreements.

- 10.2. The Client is not permitted to reproduce or disclose products, including computer programs, system designs, working methods, advice, model agreements and other intellectual works of Phileas80 or works to which Phileas80 has a right of use – to be taken in the broadest sense possible – and nor is the Client permitted to make these products available to third parties or to exploit them in any other way.

### **Article 11 – Liability**

- 11.1. Phileas80 is not liable for any loss or damage whatsoever if the Client has failed to provide accurate, up-to-date or complete data and/or has failed to provide them in a timely fashion. Phileas80 fully disclaims liability for the foregoing. The Client shall indemnify Phileas80 against third-party claims as a result of loss or damage caused by the Client's failure to provide accurate, up-to-date or complete data or to provide these in a timely fashion.
- 11.2. Phileas80 is not liable for any indirect loss whatsoever that may be suffered by the Client or a third party as a result of or in connection with the Service provided by Phileas80. Phileas80 fully disclaims its liability for the foregoing, except in the event of intent or gross negligence on the part of Phileas80.
- 11.3. The liability of Phileas80 for direct loss or damage suffered by the Client or a third party and arising from or in any way relating to the Service provided by Phileas80 is limited to the invoice amount the Client has paid and/or still owes for the specific work performed under the Service from which the error arose. With respect to Services that last more than six (6) months, the aforementioned liability is limited to the fee the Client has paid and/or still owes for the last six (6) months in which such specific work was performed under the Service from which the error arose.
- 11.4. The liability of Phileas80 is in all cases limited to the maximum amount paid out in the relevant case under the professional liability insurance including the amount of the excess.
- 11.5. Insofar as any failure by the Client to fulfil his/her/its contractual or statutory obligations causes the Client to become liable to third parties, the Client agrees to indemnify Phileas80 against all consequences of this liability. The Client is liable for all loss or damage that Phileas80 or third parties engaged by Phileas80 may suffer as a result of any breach of contract or unlawful act on the part of the Client.
- 11.6. The limitation of liability laid down in Article 10, paragraphs 2 and 3, is also stipulated for the benefit of third parties engaged by Phileas80 for the provision of any Service and pursuant to this stipulation, these third parties may directly invoke this limitation of liability.
- 11.7. Phileas80 is not liable for any loss or damage that the Client may suffer as a result of the application by Phileas80 of the relevant provisions, irrespective of whether it is established afterwards that any notification by Phileas80 should not have been submitted, having regard to all facts and circumstances. In addition, the Client agrees to indemnify Phileas80 against all third-party claims arising from the application of the relevant provisions by Phileas80, irrespective of whether it is established later that any notification made by Phileas80 should not have been submitted, taking into account all facts and circumstances.
- 11.8. In addition, it should be noted that the websites, computer programs and other forms of information and communication technology which Phileas80 uses for the purpose of providing the Service to the Client are not flawless and cannot operate without any interruption. This includes, inter alia, any loss or damage caused by delay or non-transmission of electronic messages or abuse of ICT in general, such as unauthorized disclosure of data or, for example, data manipulation and the impact of the spread of computer viruses and other software codes with unwanted or hidden functionality. Phileas80 fully disclaims any liability for the foregoing.

### **Article 12 – Indemnity**

The Client agrees to indemnify Phileas80 against any claims by third parties that may suffer any loss or damage relating to the execution of the contract where this loss or damage is imputable to parties other than Phileas80. If Phileas80 is held liable by third parties for that reason, then the Client shall render legal assistance to Phileas80 both in and out of court and immediately do everything that he/she/it may be expected to do in this case. If the Client fails to take adequate measures, Phileas80 is entitled to take such measures itself, without notice being required. All costs and any loss or damage on the part of Phileas80 and third parties arising from the foregoing will be fully at the expense and risk of the Client.

### **Article 13 – Expiry Period**

Unless these General Terms and Conditions provide otherwise, the rights of action and other powers of the Client towards Phileas80 in respect of the provision of the Service by Phileas80 for whatever reason will lapse in any event one (1) year after the date on which the Client became aware or reasonably could have become aware of these rights and powers.

### **Article 14 – Final Provisions**

- 14.1. These General Terms and Conditions and any contract between Phileas80 and the Client are governed by Dutch law. The United Nations Convention on Contracts for the International sale of Goods (CISG) does not apply. Any complaints or disputes about the execution of the General Terms and Conditions and/or any contract are submitted to the competent court in Amsterdam.
- 14.2. All agreements and arrangements between Phileas80 and the Client are laid down in a written contract. All written and oral arrangements between the Parties until then will explicitly cease to be effective as a result thereof. Amendments are valid only if these are agreed in writing by authorized staff.
- 14.3. The Dutch text of the General Terms and Conditions shall always be decisive for the purposes of their interpretation.
- 14.4. If any provision in these General Terms and Conditions and/or any contract between Phileas80 and the Client is invalid or unenforceable, according to the competent court, the other provisions of these General Terms and Conditions or the contract remain in full force. In this case, the Parties will negotiate with each other in good faith and seek to reach agreement about a practical alternative provision in order to replace the provision deemed invalid or unenforceable.
- 14.5. The Parties are at all times entitled to agree on an alternative manner of dispute resolution, including mini-trial, arbitration and binding advice.
- 14.6. A dispute exists where either Party notifies the other Party thereof in writing. Immediately after any dispute has arisen, employees and/or other staff of the Parties must inform their management thereof.
- 14.7. Before either Party submits a dispute to a court or arbitrator, the Parties shall exhaustively seek to resolve the dispute arisen through problem-solving negotiations to be conducted in good faith.
- 14.8. The Parties will treat any dispute arisen between them as strictly confidential and refrain from making any statements thereon to third parties.
- 14.9. The above provisions of this Article 13 shall remain in force even after the termination of a contract between Phileas80 and the Client.