

WHYZ B.V. – GENERAL TERMS AND CONDITIONS FOR EXECUTIVE SEARCH

This English translation is provided for convenience only. In the event of any inconsistency or conflict between the original Dutch version and this translation, the Dutch version will prevail.

ARTICLE 1. DEFINITIONS

In these general terms and conditions the following terms have the following meanings:

1. Whyz: Whyz B.V., a private limited company under Netherlands law having its registered office in Leiden, Kanaalpark 140, Chamber of Commerce no. 50506005, VAT no. NL 8227.80.343.B.01.
2. Client: any natural person who or legal entity which engages the services of Whyz to conduct an executive search for a candidate, or to undertake related consultancy services.
3. Assignment: the contract for services between Whyz and the client under which Whyz endeavours to introduce one or more candidates for an employment contract or an interim position to the client.
4. Job and candidate profile: the description, prepared by Whyz in cooperation with the client, of a (temporary) position to be filled in the client's organization, as well as the requirements a candidate for this position should meet.
5. Candidate: a person recruited and selected by Whyz who is introduced to the client in the context of an assignment given by the client to Whyz, as well as a person who is introduced to Whyz by the client (from its own network or ranks) in the context of an assignment given to Whyz in order to participate in the executive search process conducted by Whyz.
6. Gross full-time annual income: all payments in money made by the client to the candidate employed by the client in respect of the employment contract per year (for the first year). This includes in any case the gross annual salary, holiday allowance (*vakantietoelage*), fixed thirteenth/fourteenth month's pay, bonuses and profit-sharing distributions, commissions, other bonuses and similar payments.
7. Intake meeting: the meeting between Whyz and the client in which the organizational profile and the job and candidate profile are discussed (in greater detail).
8. External costs: all costs incurred by Whyz in relation to the performance of the assignment, for instance for the placement of an advertisement, the engagement of third parties, travel and subsistence expenses, insofar as agreed in writing with the client.

ARTICLE 2. SCOPE

1. These general terms and conditions of Whyz apply to all offers, quotes, assignments and contracts between Whyz and the client in connection with executive search and related consultancy services to be performed by Whyz.
2. General terms and conditions of the client, howsoever named, are not applicable to the services provided by Whyz to the client.

ARTICLE 3. JOB AND CANDIDATE PROFILE AND CHANGES TO THE JOB AND CANDIDATE PROFILE

Whyz determines the content of the assignment in cooperation with the client. In case of an executive search assignment, the assignment confirmation, which incorporates the job and candidate profile, is the basis for the assignment given to Whyz. If the job and candidate profile is changed during the performance of the assignment, the assignment will be deemed to have been cancelled (see Article 12) and a new executive search assignment will be deemed to have been given, in which case the client will be obliged to pay the full fee to Whyz in accordance with the contract prepared for that purpose.

ARTICLE 4. COMMENCEMENT OF SERVICES BY WHYZ

Whyz will commence performing its services after an assignment confirmation for the assignment in question, duly signed by the client ('assignment confirmation'), has been returned to Whyz (by email if so desired). The client retains a signed copy of the assignment confirmation.

ARTICLE 5. PERFORMANCE OF THE CONTRACT

1. Whyz will perform the assignment to the best of its knowledge and ability and in accordance with the requirements of good industry practice.
2. The client will ensure that Whyz is provided in a timely manner with all information in respect of which Whyz indicates that it is necessary. If information necessary for the performance of the assignment is not provided to Whyz in a timely manner, Whyz will have the right to suspend performance of the services and/or to charge the client for the extra costs arising from the delay on the basis of the agreed hourly rate.
3. Whyz is not liable for any loss or damage of any nature whatsoever caused by the provision by the client of incorrect and/or incomplete information.

ARTICLE 6. FREEDOM OF APPOINTMENT

The client is entirely free to choose the person it wants to employ or temporarily appoint as interim manager in the context of an executive search assignment.

ARTICLE 7. NOTIFICATION OF FORMATION OF A CONTRACT (OF EMPLOYMENT)

As soon as the client and a candidate have reached agreement, in the context of an executive search assignment, on a contract (of employment), the client must notify Whyz accordingly in writing.

ARTICLE 8. END OF OBLIGATIONS ON WHYZ

The assignment is completed when a vacancy is filled in the context of a search assignment, and Whyz will thereby be relieved of its obligation to perform the search assignment. The same applies in a situation where the client decides that the vacancy is withdrawn or will not be filled.

ARTICLE 9. CONFIDENTIALITY AND PERSONAL DATA

1. Both parties are obliged to maintain the confidentiality of any confidential information which they receive from each other or from other sources in the context of their contract. Information is considered confidential if it is designated as confidential by the other party or if this follows from the nature of the information.

2. Whyz will maintain confidentiality and exercise due care with regard to the processing of business information and personal data of both candidates and the client (and its organization), in compliance with the applicable legislation and the applicable internal code of conduct.
3. Whyz will not disclose any personal data received from a candidate to the client without the candidate's prior permission.
4. The client may not use the personal data for any purpose other than that for which it was provided and must delete (destroy) personal data within 4 weeks once the selection process has been completed and the candidate in question has not been chosen.
5. The client is not entitled to disclose any information about candidates to third parties or to introduce candidates to third parties without permission from Whyz. Failure to comply with this obligation may result in the entire fee being due to Whyz (Article 11.5).

ARTICLE 10. LIABILITY AND INDEMNIFICATION

1. Whyz is liable to its client only for loss or damage that is the direct consequence of failure by Whyz to perform the contract where such failure is attributable to Whyz, if and insofar as the loss or damage could have been avoided with the application of normal professional knowledge and experience, a normal degree of caution and the standards of good professional practice.
 2. Whyz's liability under the contract with the client for compensation for loss or damage is limited to the amount of the fee received by Whyz in connection with the assignment in question.
 3. Any liability of Whyz for the following is excluded: consequential loss or damage, emotional damage, future loss or damage on the part of the client and any property damage and emotional damage suffered by a candidate in any respect whatsoever.
 4. Whyz will make every effort to find qualified candidates and to introduce them to the client. The client indemnifies Whyz from and against any claims arising out of any failure to introduce candidates in the context of an assignment given, despite these efforts.
 5. The client indemnifies Whyz from and against any claims arising out of the disclosure by Whyz, for the purposes of the performance of the assignment, of information about the client and its organization to potential candidates and other sources.
 6. The client indemnifies Whyz from and against any claims arising out of the way in which a candidate appointed through Whyz fulfils his/her obligations and from and against any consequences of the appointment of the candidate in question.
3. Unless otherwise agreed in the assignment confirmation, the fee is invoiced in three equal instalments, i.e. 1/3 at the start of the procedure, 1/3 upon introduction of the first candidate and the remainder upon appointment of the candidate introduced by Whyz (by means of an employment contract or any other contractual relationship).
 4. If a candidate introduced by Whyz is appointed to a position other than that for which Whyz received a search assignment from the client, the client is required to pay Whyz a fee equal to 75% of the fee specified in the assignment confirmation for the search assignment. This fee is due in the event of appointment of a candidate within eighteen months of the introduction of the candidate by Whyz to the client. The decisive factor is the date on which the contract is signed, not the employment start date. Introduction means conducting an introductory interview between the candidate in question and the customer/client.
 5. If a candidate introduced by Whyz is introduced by the client to a third party within 18 months, and if such introduction results in an employment contract or contractual relationship between the candidate and such third party, the client will be required to pay the full fee referred to in Article 11.
 6. All other services performed by Whyz on the instructions of the client are subject to a fee or hourly rate to be agreed with the client.
 7. The client is obliged to pay the invoice submitted by Whyz without any deduction, set-off or suspension within 30 days of the invoice date, failing which the client will be in default without notice of default and will be liable, without prior notice, to pay statutory interest on the amount overdue at the rate applying to commercial transactions. If Whyz has to take debt collection measures, the judicial and extrajudicial costs will be payable by the client. The compensation for extrajudicial costs is set at 15% of the principal amount due.
 8. Only payments made to Whyz itself will discharge the client from liability.
 9. Payments made by the client will first be applied to the interest and the judicial and extrajudicial costs due pursuant to Article 11.7, and then to the oldest outstanding claim.

ARTICLE 12. CANCELLATION OF AN EXECUTIVE SEARCH ASSIGNMENT

1. Executive search assignments may be put on hold and/or cancelled by the client at any time. If an assignment is put on hold for more than 30 days, the assignment is deemed to have been cancelled. In the event of cancellation, the client will owe a cancellation fee of 60% of the next instalment of the fee that has not yet been invoiced, in addition to any fees already invoiced. If the provision of services in respect of the vacancy in question is resumed after 30 days, a new fee will be determined.
2. In the event of a merger, a reorganisation or any other unforeseen circumstances that affect the profile in question, the specifics of the position or the cooperation between Whyz and the client, Whyz will retain the right to terminate the assignment on the same conditions as

ARTICLE 11. FEE AND PAYMENT

1. All rates of Whyz are exclusive of statutory VAT.
2. Whyz charges the client a fixed fee for an executive search assignment in the event that agreement is reached between a candidate (as defined in Article 1.5) and the client, as agreed in the assignment confirmation (for example: not linked to the income agreed with the appointed candidate and/or in respect of a broader assignment including consultancy services). The client is required to pay the fee referred to in this paragraph for

those mentioned above. Whyz must notify the client accordingly in writing within 10 working days.

3. If Whyz has mapped out and approached the entire market for an assignment and no suitable candidate is found and if the client does not want to expand the search area for whatever reason, even though Whyz believes that this could yield one or more candidates, Whyz retains the right to regard the assignment as cancelled as referred to in Article 12.1, after consultation with the client. In that case, a cancellation fee of 60% of the next instalment of the fee will be due, in addition to any fees already invoiced.

ARTICLE 13. COMPLAINTS ABOUT INVOICES

Complaints about invoices must be submitted to Whyz in writing within one week of the date of dispatch of the invoice, failing which the client will be deemed to have approved the invoice.

ARTICLE 14. OTHER COMPLAINTS

1. The client must notify Whyz in writing of any complaints about the services performed by Whyz within 8 days of their discovery, but no later than 14 days after completion of the services in question.
2. If a complaint is found to be justified, Whyz will subsequently perform the services as agreed, unless this has by then demonstrably become useless to the client, of which the client must notify Whyz in writing.
3. If subsequent performance of the agreed services is no longer possible or useful, Whyz's liability will be limited as specified in Article 10.

ARTICLE 15. ASSIGNMENT OF RIGHTS AND OBLIGATIONS

Whyz has the right to assign the fulfilment of its obligations and the exercise of its rights under these general terms and conditions to one or more third parties. Whyz will notify the client in writing of such an assignment. These general terms and conditions remain applicable if the name, legal form or ownership of Whyz B.V. is changed in whole or in part.

ARTICLE 16. MISCELLANEOUS PROVISIONS / GOVERNING LAW AND COMPETENT COURT

1. If any of the provisions of these general terms and conditions proves to be void or voidable, the parties will consult with each other to replace such provision with a provision that most closely matches the intent of the original provision. If any of the provisions of these general terms and conditions is void or voidable, this will not affect the validity of the other provisions of these general terms and conditions.
2. The contracts, agreements and relations between Whyz and the client are governed by the laws of the Netherlands.
3. Any dispute arising between Whyz and the client will be subject to the exclusive jurisdiction of the District Court of The Hague. Legal proceedings will not be instituted until the parties have made an effort to reach an amicable settlement of the dispute.
4. Whyz is entitled to amend all provisions of these general terms and conditions set forth above. Any amendment to these general terms and conditions will take effect on the day on which the amended general terms and

conditions are filed at the Chamber of Commerce in The Hague. If the general terms and conditions are amended in the course of an executive search assignment, the existing general terms and conditions will continue to apply to the contract, unless the client has given its express consent to the applicability of the amended general terms and conditions.

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