

Terms and Conditions – Milltain

These are the terms and conditions of Milltain B.V. (**Milltain**). Milltain is located at Keizersgracht 482 1017 EG Amsterdam, registered with the Chamber of Commerce (*Kamer van Koophandel*) under number: 74174223.

If you have any questions, you can contact us .

Milltain reserves the right to change these terms and conditions. You agree that the most recent version of these terms and conditions apply. Parties may deviate from these Terms and Conditions in writing.

Article 1 - Services

We offer the following services: coaching individuals and employees of companies who have a burn-out or experience serious stress complaints. Prevention is also being provided.

Article 2 - Applicability of these General Terms and Conditions

These terms and conditions apply to every offer, proposal and assignment between Milltain and you (**Client**). On request, Milltain shall send these terms and conditions to you, free of charge. They are also available on www.milltain.com.

Article 3 - Establishment of the Assignment

The assignment shall be deemed established when Client consents to the service.

Article 4 - Proposals and Offers

1. All offers and proposals from Milltain are non-binding, unless agreed otherwise in writing. An offer or proposal only applies to the assignment specified therein (and not to possible future assignments).
2. If the Client provides Milltain with certain information, Milltain may assume that the provided information is correct and will base the proposal on that information.

Article 5 - Pricing

1. Milltain can raise the price in the interim in the case of unforeseen and cost price increasing circumstances, if these circumstances occur after the establishment of the assignment.
2. In case Milltain has raised prices due to the circumstances referred to in the previous section, the Client has the right to annul the assignment. The Client will be charged for costs incurred for working hours or the execution of parts of the assignment. The Client in such case has no right to compensation or damages.
3. An offered price does not include expenses for Milltain and does not include taxes or levies by the authorities.

Article 6 - Payment and Collection Charges

1. Client must pay within fourteen days after the invoice date.

2. If the payment by Client is due, he will automatically be in default (*verzuim*), without a notice of default (*ingebrekestelling*) being required. In case of default, Client owes Milltain the statutory interest (in case he is a consumer) or alternatively the statutory commercial interest. The interest on the payable amount is calculated from the moment that the payment is due, until the moment that the payable amount has been paid by Client in full.
3. If Client does not pay in time, he shall immediately be in default. He will then be due to Milltain all extrajudicial costs. In case of an invoice amount to € 267, these costs will be € 40. In case of a higher invoice amount, the maximum collection fees are as follows:
 - a. 15% on the first € 2,500;
 - b. 10% on the part that remains thereafter, up to € 5,000;
 - c. 5% on the part that remains thereafter, up to € 10,000;
 - d. 1% on the part that remains thereafter, to € 200,000;
 - e. 0.5% on the remaining part, whereby the total collection fees are maximised to € 6,775.
4. Any outstanding amounts by the Client are immediately payable in the following cases:
 - a. Client fails to pay within the payment term;
 - b. Client is bankrupt or applied for a suspension of payment or any other insolvency procedure;
 - c. Client (company) is dissolved or liquidated;
 - d. Client (private individual) is placed under guardianship or deceased.

Article 7 - Duration

1. Client and Milltain enter into the contract for an indefinite period of time, unless Parties agree otherwise.
2. For an assignment of an indefinite term, the following notice periods apply:
 - Milltain can terminate the agreement per every first day of the month. The notice period is one. Milltain terminates the agreement by means of a signed letter.
 - The Client can terminate the agreement per every first day of the month. For the Client a notice period is one. The Client terminates the agreement by means of a signed letter. In this letter he must specify the reason for cancelling the agreement.
 - Parties can terminate an agreement at any given time by mutual consent.

Article 8 - Execution Time

1. If Client owes Milltain a prepayment or if Milltain needs Client to provide certain information or materials, the term within which Milltain shall execute the activities (the execution time), shall not begin to run until the prepayment, information or material is received by Milltain.
2. If parties, before execution, have agreed on a term for the fulfillment of the services, the final date shall never be regarded as a deadline. When the term is due, Client shall send a notice of default to Milltain.
3. Client cannot terminate the agreement if Milltain exceeds a term. This does not apply when execution of the activities is permanently impossible or if Milltain does not execute the activities within a new term for execution. Such new term should be given in writing.

Article 9 - Third Parties

Milltain may involve third parties to (partially) perform the activities. The following articles of the Dutch Civil Act (*Burgerlijk Wetboek*) do not apply:

- 7:404 (execution by a certain person);
- 7:407 sub 2 (joint and several liability);
- 7:409 (death of a certain person).

Article 10 - Execution of the Assignment

1. Milltain shall execute the assignment at the best of its knowledge and abilities and according to the requirements of professional practice.
2. Milltain may execute the assignments in different phases and send separate invoices on the different phases.
3. If Milltain performs the assignment in different phases, Milltain may suspend any activities on the next phase until Client approved the execution of the last phase in writing.
4. Client shall timely provide Milltain with all information or material, required for the execution of the assignment.
5. If Client does not provide the material or information in time, Milltain may suspend the execution of the assignment and charge the additional costs, resulting from the delay. Milltain is not liable for any damages, resulting from incorrect or incomplete information, provided by Client.

Article 11 - Changes of the Assignment

1. If it proves to be necessary to change the assignment during the activities in order to guarantee a decent execution of the assignment, parties shall negotiate the required changes and agree on them in writing.
2. If parties agree on altering the assignment, Milltain may raise or lower the price. If possible, Milltain shall provide a quotation to Client in advance. The execution time may change with a change of the assignment. Client agrees on the possibility to change the assignment, the pricing and the execution time.
3. Milltain may refuse a request, made by Client, to change the assignment if such changes could affect the quality or quantity of the activities.

Article 12 - Suspension, Dissolution

1. Milltain may temporarily suspend the execution of the activities if he cannot comply because of *force majeure*.
2. If the execution of the assignment is permanently impossible parties may cancel the assignment for the part that has not been fulfilled.
3. Milltain may suspend or cancel the assignment if Client fails to meet its obligations, partially, completely or in time. In such cases, Client shall compensate Milltain for damages.

Article 13 - Termination in the Interim

1. If Milltain cancels the assignment in the interim, Milltain shall ensure a handover of the work yet to be performed to a third party, unless the termination is imputable to Client. If the handover of the activities leads to additional costs for Milltain, these costs shall be borne by Client.
2. Milltain may immediately cancel the assignment (and is not liable for any damages doing so) in one of the following events:
 - a. Client fails to pay within the payment term;
 - b. Client is declared bankrupt or applied for suspension of payments, or applied or becomes subject to any other insolvency procedure;
 - c. Client (the company) is dissolved or liquidated;
 - d. The occurrence of circumstances in which Client can no longer freely dispose of his capital.

Article 14 - Force Majeure

1. Milltain is not obliged to comply in the event of *force majeure*.
2. Milltain may suspend the obligations, coming from the assignment, for as long as the force majeure continues.
3. If Milltain complied with a part of its obligations, and that part has an independent value, Milltain may charge that part to Client.

Article 15 - Retention of title

1. Everything supplied by Milltain shall remain the property of Milltain until Client has fully fulfilled all its obligations.
2. Client must do everything he can reasonably do to secure the properties of Milltain.
3. If Milltain wishes to exercise its property rights, Client gives unconditional and irrevocable consent to Milltain to enter all places where the properties are located, so that Milltain can take them back.

Article 16 - Complaints

1. Client shall notify Milltain in writing of any complaints within one month days after detection (or –on invisible shortcomings– after he could have detected it).
2. A timely notified complaint does not suspend or cancel any payment obligation resting on Client.
3. If Client does not notify Milltain timely, Client is not entitled to any recovery, replacement or compensation.
4. If it is established that the complaint is justified and the notification by Client thereof was timely delivered, Milltain shall recover, replace or compensate it's work within a reasonable term after notification of the shortcoming, in writing from the Client.
5. If it is established that a complaint is not justified, Client shall compensate Milltain for made expenses (like research costs).

Article 17 - Liability

1. Milltain is only liable for direct damages suffered by Client as a direct consequence of a shortcoming by Milltain.
2. Milltain is not liable for any damages resulting from Milltain due to incorrect or incomplete information provided by Client.
3. The liability of Milltain shall never exceed the amount paid by its insurer.
4. If Milltain's professional liability insurer does not cover the damages, Milltain's liability is limited to the amount paid by Client. Under no circumstances can this liability exceed the amount of €500,00.
5. The limitations set out in this article do not apply if the damages are the result of a deliberate act or gross negligence.

Article 18 - Limitation Period

The limitation period on all claims and defences against Milltain is one year.

Article 19 - Indemnification

1. Client indemnifies Milltain from any claims by third parties, who suffer damages, resulting from the execution of the assignment but cannot be attributed to Milltain.
2. If third parties address Milltain to be liable for damages resulting from the execution of the assignment, Client shall support Milltain both judicial and extrajudicial and Client shall do what may be expected from him.
3. If Client does not provide the support described in paragraph 2, Milltain may take the actions it deems required. All expenses and damages made by Milltain in this respect shall be borne by Client.

Article 20 - Intellectual Property

1. All the plans, documents, pictures, drawings, programming, creations and related information, made by Milltain, remain property of Milltain. This also applies if related expenses are charged or when these are improved, later on.

2. Client can only copy the aforementioned properties if it is for internal use within Client's company and cannot show the properties to third parties or put the properties at disposal in a different manner than originally intended by Milltain.
3. Client and Milltain shall agree on more detailed arrangements, in separate agreements, on certain licenses, given to Client by Milltain. If parties do not agree on further terms concerning the licenses, Milltain grant Client a non-transferrable license to use the works, made by Milltain (like: software, designs, illustrations or any other creation), for an indefinite period of time.

Article 21 - Non-Disclosure

1. Milltain shall not disclose any of Client's information to third parties, unless Milltain is required by a statutory or professional obligation to disclose the information.
2. Milltain shall not use any information, obtained from Client, in a different manner than originally intended, except that the information may be used in a legal procedure that involves Milltain and the information can be of importance.
3. Client shall not disclose the contents of agreements, confirmations, offers, reports, advices or other expressions from Milltain, whether they are in writing or not.

Article 22 - Nullity

If any part of these conditions is void or voidable, this does not alter the validity of the remainder of these conditions. The invalid or unenforceable part shall be replaced by a provision that most closely follows the content of the invalid provision.

Article 23 - Conflicting Provisions

If any of the provisions from these terms and conditions are in conflict with a provision from an agreement, the provisions of these terms and conditions shall prevail.

Article 24 - Applicable Law

Dutch law.

Article 25 - Competent Court

The Court of Overijssel.