

Terms and conditions of TEVEA's VAT reclaim service

1. Subject matter

1.1. TEVEA International SA (hereunder referred to as TEVEA) offers, under the terms and conditions hereunder, a VAT reclaim service. This service enables a company (hereunder referred to as the Customer) that fulfils the required conditions to recover, on request and for remuneration, deductible VAT paid on foreign invoices eligible for refund.

1.2. The word "foreign" shall refer to any country in which the Customer has no head office.

1.3. The reclaim service is offered in all 28 countries of the European Union, as well as Switzerland, Norway and Monaco.

1.4. The legal basis of the reclaim procedure are the 8th and 13th EU VAT Directives as well as national legislations.

2. Right to refund

2.1. The above mentioned refund procedures imply substance and form conditions. The Customer recognizes having full knowledge of those conditions, especially with regards to the deadlines that are imposed to submit refund claims.

2.2. Among the main substance conditions (non-exhaustive list), the claimant shall be a taxable person; the VAT presented for refund shall have been incurred for the purpose of the economic activity of the claimant; the claimant shall not have performed taxable supplies in the country of the claim and during the period covered by the claim; the claimant shall not have a fixed establishment in this country.

2.3. Among the main form conditions (non-exhaustive list), the claimant shall present original invoices to justify the VAT for which he is claiming the refund; the claimant shall respect the maximal number of claims allowed as well as the deadlines to submit the claims, the claimant shall provide the tax authorities with any document that may be required by the latter.

2.4. The Customer gives TEVEA power of attorney to prepare and submit the refund claims in the concerned countries, to receive the payment of the refunded VAT amounts, and more generally to undertake any action necessary to obtain the refunds (including any correspondence with the relevant tax authorities or the submission of appeals/reconsideration requests).

3. Exclusivity

3.1. The Customer agrees that TEVEA shall be its exclusive VAT reclaim agent for the countries for which refund claims are made by TEVEA. For any one given period and country, the Customer agrees not to give power of attorney to any other VAT reclaim agent.

3.2. The Customer recognizes having knowledge that the European legislation provides that a claimant may submit just one claim for any one country and for any one given refund period. The Customer thus undertakes to cancel any other prior contract that he may have entered into with any other VAT reclaim agent other than TEVEA.

3.3. The Customer undertakes to advise TEVEA of any claim submitted prior to the transfer of an application for refund to TEVEA.

3.4. The Customer undertakes not to submit directly any claim for a VAT refund in any country for which he has given power of attorney to TEVEA.

3.5. Failure to comply with any point set out in this paragraph may result in the denial of one or more claims for a VAT refund.

4. Obligations of the Customer

4.1. The Customer undertakes to notify immediately TEVEA shall he perform taxable supplies in the countries where he is reclaiming VAT, or shall he set up there a fixed establishment.

4.2. The Customer undertakes to provide TEVEA, within the delays indicated by TEVEA, with all documents that may be required to prepare a refund claim, or that may be required by a tax administration, may that be before or after the submission of the claim, or so long the status of limitation for tax audit has not been reached.

4.3. In any event, the Customer shall provide TEVEA with all documents necessary to prepare a refund claim no later than two months before the final deadline; failing this, TEVEA will not be able to guarantee that claims be correctly processed before the deadline.

4.4. Should the relevant tax authorities only accept originals of documents, the Customer undertakes to provide TEVEA with those originals of documents.

4.5. The Customer confirms and guarantees that the documents sent to TEVEA are true and authentic. Moreover, the Customer shall not provide TEVEA with facts that the Customer knows to be misleading or false, nor let TEVEA submit a claim for a VAT refund that the Customer knows to depart from national or European legislation.

4.6. The Customer acknowledges that he remains sole responsible for the accuracy of the information forwarded by him to TEVEA. TEVEA cannot be held responsible for the consequences which could possibly result from the inaccuracy of the elements passed on by the Customer.

4.7. The Customer undertakes to inform TEVEA without delay of any communication relating to a refund claim that he may receive directly from a tax administration or a vendor, or from repayment that he may receive directly.

5. Mission of TEVEA

5.1. In order to provide the services described in the present terms and conditions, as well as the options mentioned in articles 6.3, 6.4, 6.6 and 6.7, TEVEA commits to a "best effort" obligation.

5.2. Once the documents required for a VAT refund claim have been received and verified, TEVEA shall submit the claim to the relevant tax administration, and shall advise the Customer by mail or email that the claim has been filed.

5.3. TEVEA undertakes to apply for VAT refunds in accordance with the rules that apply thereto, notably with regard to the legal minimum amount of VAT that can be refunded, expenses that qualify for refund and the form of documentation submitted.

5.4. The Customer acknowledges that the delays to obtain a refund depend on the processing delays by the relevant tax authorities and that they may vary from one country to another. TEVEA shall not be held responsible for the delays taken by the tax authorities.

5.5. For countries of which the tax administrations pay the refunded amounts directly to TEVEA, once TEVEA has received a refund from a tax administration, TEVEA commits to a best effort obligation to pay the refund, following deduction of its fees, to the Customer, as soon as possible.

5.6. The mission entrusted to TEVEA does not entail to bring any action before a competent Court of Justice, in particular in the event of a dismissal by an administration of a possible disputed complaint or a request for exemption.

6. Fees

6.1. The Customer undertakes to pay TEVEA for the service rendered. Those fees are defined in the specific agreement concluded between TEVEA and the Customer, such agreement being possibly reached by an exchange of e-mails.

6.2. When TEVEA receives the refunded amounts directly from the relevant tax administrations, TEVEA deducts its fees directly from the refunded amounts.

6.3. Whenever the invoices sent by the Customer to TEVEA in order to prepare a refund claim do not comply with the relevant invoicing rules, and are thus not eligible for VAT refund purposes, TEVEA reserves itself the right to contact the vendors in order to obtain correct invoices (restyling of invoices). In such case, TEVEA shall receive additional fees to those foreseen in article 6.1, those additional fees being equal to 6% of the VAT amount refunded and in relation with the restyled invoices.

6.4. Whenever VAT has been unduly charged by one or several vendor(s), TEVEA, after prior approval by the Customer, reserves itself the right to contact such vendor(s) in order to obtain from them the reimbursement of the unduly charged VAT. In such case, TEVEA shall receive additional fees to those foreseen in article 6.1, those additional fees being equal to 6% of the unduly charged VAT amount. Those fees are due upon approval by the Customer that TEVEA undertakes the necessary actions, whatever the result of those actions might be.

6.5. Except in specific cases, the Customer shall not be billed any fees in the event that the Customer's claim is denied a tax administration.

6.6. In case a refund claim is denied by a tax administration, TEVEA remains entirely free to assess the opportunity of introducing an appeal to the decision or a request for reconsideration. Any refund that may be obtained after an initial denial decision was issued by a tax administration will be subject to additional fees to those foreseen in article 6.1, those additional fees being equal to 6% of the refunded amount.

6.7. In the event of any legal action in front of a Court of Justice taken by TEVEA, all legal fees incurred by TEVEA shall be re-invoiced to the Customer.

6.8. For countries in which the tax administration directly refunds the Customer, TEVEA's fees are due upon reception by the Customer of the invoice issued by TEVEA. In case of non-payment within 15 days, TEVEA reserves the right to deduct the fees from any other claim that may be refunded.

6.9. According to article L. 441-6 of the French Code of Commerce, late payment penalties at an annual rate of 20% shall be applied for any payment taking place on the day following the payment date indicated on the invoice.

6.10. All expenses arising from bank transfers related to the refund shall be borne by the Customer.

7. Limitation of liability

7.1. The Customer may claim damages from TEVEA only in the event of negligence or breach of contractual obligations on the part of TEVEA that result in the loss of amounts normally refundable. The amount of damages that may be claimed from TEVEA may not exceed the amount of VAT to be recovered.

7.2. TEVEA may not be held liable for any problem that does not come under its responsibility.

7.3. The information given in the country files, specific to each country, (Rates, Claimable Items, Minimum Amounts, Special Features) is provided for information purposes only and TEVEA may not incur any liability on account thereof. Moreover, TEVEA may not be held liable for any change in legislation and operation thereof.

7.4. TEVEA may not be held liable for the loss or destruction of originals of invoices in the event of fire, vandalism, theft, water damage or any other exceptional event.

7.5. TEVEA may not be held liable for the loss or destruction of originals of invoices when consigned by post or courier, nor once they have been sent to a tax administration.

7.6. The Customer undertakes to compensate TEVEA for any loss that TEVEA could incur resulting from the Customer's failure to fulfil his contractual commitments.

8. Professional secrecy

8.1. Any information or document disclosed by the Customer to TEVEA or of which TEVEA has been aware or has taken note as part of the performance of services, in particular – but not exclusively – any information with regard to activities, customers, suppliers, know-how or market opportunities of the Customer that are not in the public domain at the time of their disclosure, shall be confidential.

8.2. TEVEA undertakes to only use this confidential information in order to perform the services under the Agreement presented here and not to disclose this confidential information at any time and to anyone without the prior written consent of the Customer, unless any legal or regulatory obligation requires him to do so.

9. General

9.1. TEVEA reserves itself the right to call upon third parties (partners or subcontractors) to obtain a refund of VAT in certain countries. The Customer is informed of the identity of those third parties and the present Terms and Conditions, (especially with regards to the Protection of Personal Data) shall apply to those third parties. The Customer undertakes to communicate to these third parties any information or document required to obtain the refund of VAT.

9.2. The present Terms and Conditions shall be governed and construed in accordance with the laws of France.

9.3. Any dispute concerning the application or interpretation of the present terms and conditions shall be submitted to Tribunal de Commerce de Paris

10. Regulations on Protection of Personal Data (GDPR)

10.1. Instruction and Purpose of the Processing

Pursuant to its missions and in accordance with the Article "Missions of TEVEA" of the present Terms and Conditions, the Customer shall transfer to TEVEA, in the capacity of processor, all data in its possession, including personal data so that TEVEA can:

- Analyse the evidentiary documents sent by the Customer and under the responsibility of the latter;
- Prepare and submit the VAT refund claims.

TEVEA undertakes to process the personal data contained in the items and documents transmitted by the Customer solely in strict compliance with the instructions of the Customer above and to make no further use of the data transmitted.

All personal Data processed by TEVEA in the name and on behalf of the Customer for the performance of the tasks entrusted to it shall be referred to hereinafter as the Data.

10.2. Characteristics of the processing

The processing is of fiscal nature, its object is the preparation and submission of VAT refund claims, and its purpose is the reimbursement of the claimed VAT amounts.

10.3. Storage period

The Data is kept for the duration of the business relationship between the Customer and TEVEA plus the statutory fiscal duration.

10.4. Categories of data processed

- Identification data, including civil status data;
- Professional data including, in particular, the position held by the person concerned;
- Financial data including billing information.

10.5. Data Subjects

The persons concerned by the processing (hereinafter the "Data Subjects") are:

- The legal representatives and staff of the Customer
- The service providers, suppliers and clients of the Customer;

10.6. Obligations of the Customer

The Customer has the capacity of controller.

The Customer consequently assumes all the obligations imposed on all controllers and in particular:

- to transmit to TEVEA only legal, up-to-date, adequate and relevant Data;
- to inform the Data Subjects of the characteristics of the processing which concerns them and the rights they have in accordance with the Regulations;
- to create and maintain a record of processing.

10.7. Obligations of TEVEA

In accordance with the provisions of the Regulations, TEVEA - as processor - undertakes to process the Data only on documented instructions from the Customer, including with respect to the transfer of Data to a third country outside the European Union or to any international organization and to immediately inform the Customer of any instructions that would constitute a breach of the provisions of the Regulations.

In the event that TEVEA is required to perform a Data transfer, by virtue of the right to which it may be subject, TEVEA undertakes to inform without delay the Principal of this legal obligation, unless the right concerned prohibits such information for important reasons of public interest.

In addition, TEVEA shall ensure the security of the Data in order to prevent any loss, damage, alteration or unauthorized access to the Data.

In this respect, TEVEA undertakes to:

- put in place all technical, organizational and material measures necessary taking into account the nature of the Data with a view to the processing of the Data and for the duration of its processing of the Data;
- ensure that all persons authorized to process the Data, under its responsibility, undertake to observe the confidentiality of the Data;
- provide support and assistance to the Customer in order to enable the latter to comply with its obligations under the Regulations and in particular to enable it to respond to requests of Data Subjects within the limits of the means, information and knowledge at its disposal;
- notify the Customer of any breach of the Data of which it becomes aware and which comes under Article 33.2 of the GDPR, as soon as it is discovered;
- make available to the Customer all the information necessary and available to prove compliance with the obligations provided for in Article 28.3 of the GDPR;
- provide the Customer, at its request and when required by the GDPR, with the information necessary to enable it to inform the supervisory authority or Data Subjects.

10.8. Data Security Measures

Each Party is responsible for determining security measures and for transmitting them to the other Party at the request of the latter.

For its part, TEVEA has put in place and documented the following measures:

- physical security of its premises: intrusion protection, access control, management and monitoring of access authorizations including visitor management, and incident alerting procedures;
- logical security: password policy, protection of sensitive IT environments by up-to-date antivirus software (virus signature databases and programs);

Limits: The Customer acknowledges that TEVEA has no control over the transit of the Data via telecommunication networks used by the Customer to transmit the Data to TEVEA as well as by TEVEA to transmit declarations to the tax administration, and in particular the Internet network and the online platforms of the tax administration. The Customer acknowledges and accepts that TEVEA cannot therefore guarantee the confidentiality of the Data when transferring it on said public networks.

Consequently, TEVEA cannot under any circumstances be held liable in the event, in particular, of misappropriation, capture or corruption of the Data, or any other event likely to affect the Data, occurring during its transit on public telecommunication networks.

The Customer considers, in its capacity as controller, that in view of the nature of the Services and the risk that it has assessed in relation to the protection of the rights of Data Subjects, the above-mentioned measures and the stipulated limits present adequate safeguards and meet the requirements of the Regulations.

10.9. Notifications of Breaches

In accordance with the Regulations, TEVEA shall communicate to the Customer the information in its possession, in the event that a Breach is caused during the performance of its missions, allowing the Customer to meet its notification and remediation obligation with respect to the supervisory authority and Data Subjects.

10.10. Compliance with the rights of Data Subjects

TEVEA has no connection with the Data Subjects when processing their Data under the Contract. The Customer is therefore the sole debtor of the legal obligations in relation to the observance of the rights of the Data Subjects whose Data is processed. To comply with this obligation, it has organizational and technical measures enabling it to (i) clearly inform the Data Subjects about the processing carried out by TEVEA, (ii) obtain their consent if necessary, (iii) respond, in particular, to their requests in relation to their rights of access, rectification, deletion, objection, and portability of their Data.

In this respect, the Customer shall be responsible for providing Data Subjects with clear, unambiguous information that shall be accessible at any time on the terms and conditions under which their personal Data may be processed by third parties such as TEVEA or its partners. The Customer shall be entirely responsible for the consequences, and pecuniary consequences in particular, in the event of claims by the Data Subjects, if the Data processing carried out by TEVEA is not in conformity with the Regulations because of incorrect information or a lack of consent to such processing.

In the exceptional event that TEVEA should receive, directly or through a Subsequent Processor, a request concerning the rights referred to above, it undertakes to inform the Customer as soon as possible so that it can meet its own obligations.

In general, TEVEA shall make its best efforts to provide assistance to the Principal in order to allow the latter to fulfill its obligations as a Controller.

10.11. Treatment of the Data at the end of the Mandate

At the end of the Mandate, TEVEA undertakes to return all the Data to the Customer.

Nevertheless, and by express agreement, the Customer authorizes TEVEA to keep a copy of all Data for probative purposes for the entire statutory period.

TEVEA undertakes to keep the Data only for the purposes of probative archives and to ensure a level of security equivalent to that applied throughout the term of the Mandate.

10.12. Information to the Customer

The Customer is informed that TEVEA may implement Personal Data processing under its responsibility. This processing does not concern any data communicated by the Customer under the Mission entrusted to TEVEA and is implemented only for the purposes of monitoring and managing its contractual and commercial relations.

The persons concerned by this processing are the representatives and staff of the Customer in charge of the negotiation, execution and/or performance of the present Mandate.

The legal basis of this processing, within the meaning of the provisions of the Regulations, is the performance of the contract.

TEVEA may also pursue processing for the purposes of electronic commercial prospecting. In this respect, TEVEA undertakes to use only the professional contact details of the Data Subjects and to propose products or services that may be of interest to the Customer and directly related to the functions held by the Data Subjects, who have the right to object to such use of their Data.

The Personal Data is kept for the duration of the commercial relationship between TEVEA and the Customer and, as the case may be, for a duration increased by three (3) years from the last contact between TEVEA and the Data Subject.

The Data Subjects may also exercise in respect of TEVEA all the rights they hold pursuant to the Regulations and particularly the rights of access, modification, rectification, objection, the right to portability of their Data and the right to define directives for the treatment of their Data after their death. They may exercise these rights by post at the following address:

TEVEA International
29 – 31 rue Saint Augustin
75002 Paris - FRANCE

or electronically at the following address: mail@TEVEA.fr

All requests must be accompanied by an identity document.

The Customer acknowledges and accepts the terms of this processing and undertakes to inform the Data Subjects, in the name and on behalf of TEVEA, of all characteristics of the processing and the procedures for exercising the rights they possess as set out above.