

# **General Terms and Conditions of DVI Advocatuur**

## **1 DVI Advocatuur**

- 1.1 DVI Advocatuur is the trade name of the private limited company DVI Advocatuur B.V. (Chamber of Commerce 32148654). DVI Advocatuur is the corporate practice of M. de Vries, attorney in Naarden, the Netherlands (hereinafter referred to as “**Attorney**”). Each Attorney associated with DVI Advocatuur uses these General Terms and Conditions, as referred to in Section 6:231 of the Dutch Civil Code.

## **2 Applicability**

- 2.1 These General Terms and Conditions apply to and form part of all legal relationships between an Attorney and the person with whom the Attorney has entered into a contract (hereinafter referred to as “**Client**”) for the provision of services by the Attorney in the broadest sense of the word. Legal relationships include (but are not limited to) all obligations (both contractual and statutory), including supplementary and follow-up contracts, all communications (written, electronic and oral) and the use of the DVI Advocatuur website.
- 2.2 The stipulations in these General Terms and Conditions are also applicable to and also apply to persons working for or with an Attorney or for whom an Attorney is (otherwise) liable.
- 2.3 To the extent legally possible, the provisions in these General Terms and Conditions also apply to an Attorney in their capacity as administrator or similar capacity derived from appointment by a Court.
- 2.4 The applicability of general terms and conditions or other stipulations or terms and conditions of a Client is expressly rejected.

## **3 Assignment**

- 3.1 An assignment between an Attorney and a Client is established by a Client awarding an assignment and the acceptance of the assignment by the Attorney.
- 3.2 Assignments are awarded to DVI Advocatuur B.V. The Attorney to whom an assignment is awarded will be apparent from the circumstances of the case, such as (but not limited to) a written or non-written assignment and a written or non-written assignment confirmation.
- 3.3 Assignments are accepted and carried out by an Attorney to the exclusion of Section 7:404, Section 7:407(2) and Section 7:409 of the Dutch Civil Code. The Client agrees that the Attorney may have all or part of the assignment carried out by another Attorney (with a possibly different hourly rate) associated to DVI Advocatuur.
- 3.4 Assignments are accepted and carried out exclusively for the benefit of the Client. Persons other than the Client cannot derive any rights from the assignment and its execution.
- 3.5 In the event of a dispute regarding the establishment of an assignment, this can only be proven by a written or electronic confirmation of the assignment from the Attorney.

## **4 Engagement of third parties**

- 4.1 An Attorney is free to engage third parties in the performance of the assignment.
- 4.2 The engagement of third parties (including, but not limited to, bailiffs, civil-law notaries, tax specialists or other attorneys) is exclusively by or on behalf of the Client, unless agreed otherwise. If a third party is engaged on the Client’s behalf, the Attorney is also entitled to enforce any terms and conditions of the third party to the Client.

## **5 Fee**

- 5.1 Unless otherwise agreed in writing or electronically between an Attorney and a Client, the Attorney performs their activities on an hourly basis. The hourly rate and any costs are increased, in so far as required by law, by the applicable VAT rate. The Attorney is free to revise their hourly rate periodically, in principle annually on 1 January. The Attorney will notify the Client of such a review in writing or electronically.

- 5.2 Costs incurred for the execution of the assignment, such as travel and accommodation costs and costs of third parties (including, but not limited to, so-called advances, such as bailiff fees and court registry fees or other costs and costs of experts engaged by DVI Advocaatuur for the execution of the assignment, costs of the Chamber of Commerce or the Land Registry) will be charged. Costs will be charged to the Client at any time desired by the Attorney.
- 5.3 An Attorney is entitled at any time to charge an advance to the Client. Both fees and costs may be set off against an advance payment. Unless otherwise agreed in writing or electronically between an Attorney and a Client, the Attorney will only commence their activities after the advance payment has been made by the Client.
- 5.4 Unless otherwise agreed in writing or electronically between an Attorney and a Client, the work of an Attorney is in principle charged on a monthly basis.
- 5.5 Unless otherwise agreed in writing or electronically between an Attorney and a Client, the Attorney's invoices must be paid in full within 14 (fourteen) days of the invoice date. After expiry of this period, the Client is in default by operation of law.
- 5.6 In the absence of timely payment, the Client owes the Attorney extrajudicial costs. These costs amount to 10% of the total claim (i.e. including costs and VAT), with a minimum of EUR 250 for entrepreneurs and EUR 40 for private individuals. All costs relating to the judicial collection of invoices (or parts thereof) that have not been paid on time are for the Client's account, including the full attorney's fees.
- 5.7 The Attorney is entitled to suspend their activities at any time if the Client fails to comply with one or more provisions of these General Terms and Conditions or if they reasonably expect that the Client cannot comply with them.

## **6 Obligation to provide information**

- 6.1 The Client is obliged to provide the Attorney (i) with all information that may be relevant for the execution of the assignment and (ii) with all information required by the Attorney, in a correct, timely and complete manner. The Client guarantees that all information provided to an Attorney (written, electronic and oral) is correct, complete and not misleading.

## **7 Duty to Complaint**

- 7.1 If, in the opinion of the Client, the Attorney has not properly performed an assignment, the Client must notify the Attorney in writing, stating the reason, within 14 (fourteen) days of the date on which the Client discovered or reasonably should have discovered the defect, failing which the Client can no longer invoke the alleged defect in the performance.

## **8 Liability**

- 8.1 DVI Advocaatuur and each Attorney who carries out the assignment assigned to DVI Advocaatuur (hereinafter both individually and jointly referred to as "**DVI Advocaatuur**") does not guarantee the achievement of any intended result.
- 8.2 Any liability of DVI Advocaatuur is limited to the amount that is paid out in a specific case under the professional liability insurance of DVI Advocaatuur. The limitation does not include the amount of the deductible of the professional liability insurance.
- 8.3 If the professional liability insurance does not provide cover and/or no amount is paid out, any liability of DVI Advocaatuur is limited to the amount of fees (i.e. without costs and VAT) paid by the Client to an Attorney in the year preceding the cause of the liability. If the professional liability insurance does not provide cover and/or no amount is paid out, and if no fee has been charged to the Client, any liability of DVI Advocaatuur is limited to an amount of EUR 10,000 (in words: ten thousand euros).
- 8.4 DVI Advocaatuur is not liable for or towards third parties (including, but not limited to, bailiffs, civil-law notaries, tax specialists, advisors or other attorneys) or the way in which they carry out actions, perform work or comply with agreements (or, on the contrary, do not carry out, perform or comply insufficiently).

- 8.5 The Client indemnifies DVI Advocatuur against all claims of third parties arising from or related to an assignment awarded by the Client.
- 8.6 DVI Advocatuur is not liable for indirect damage, such as (but not limited to) consequential damage or loss of turnover.
- 8.7 The Client is obliged to take out adequate insurance for the activities they perform or will perform that are related to the assignment awarded to an Attorney. The Client is obliged to do everything reasonable to limit damage for which DVI Advocatuur is liable. DVI Advocatuur is not liable for damage that (i) is not compensated by insurance, whereas this would have been the case if the Client had taken out adequate insurance as referred to in this Article, and (ii) has arisen or increased because the Client has not complied with their obligation to limit damage as referred to in this Article.

## **9 Waiver of right**

- 9.1 The Client hereby waives their right of set-off and suspension. The Client also waives their right to make a preservation order (i) at the expense of an Attorney or DVI Advocatuur or (ii) among themselves in order to thwart any payment obligation to an Attorney.

## **10 Termination**

- 10.1 An Attorney and a Client are at all times free to terminate a contract of assignment between them. Termination of the contract is without prejudice to the indebtedness of the work declared and yet to be declared and any costs incurred.

## **11 Amendments**

- 11.1 These General Terms and Conditions may be amended unilaterally by DVI Advocatuur from time to time. The amended terms and conditions will be sent to the Client in writing or electronically at least 14 (fourteen) days prior to their entry into force. The amended terms and conditions will be effective at the moment of entry into force, unless the Client has previously terminated the agreement between them and the Attorney. After their entry into force, the amended terms and conditions will also apply to the period prior to the amendment.

## **12 Invalidity**

- 12.1 If and in so far as any provision of these General Terms and Conditions is or becomes invalid, void or unenforceable in whole or in part, this invalidity, voidability or unenforceability shall not affect the other provisions and these General Terms and Conditions shall remain in force for the rest.
- 12.2 An invalid, void or unenforceable provision (or part thereof) will be replaced by a valid, void and enforceable provision. The replacement provision must be consistent with the content and purport of the other content of these General Terms and Conditions.

## **13 Miscellaneous**

- 13.1 These General Terms and Conditions are available for inspection by a Client at DVI Advocatuur and will be sent to the Client in writing or electronically at the request of a Client.

## **14 Disputes**

- 14.1 These General Terms and Conditions and all obligations (both contractual and statutory) arising out of or in connection with these General Terms and Conditions shall be governed exclusively by Dutch law.
- 14.2 All disputes arising from or in connection with these General Terms and Conditions, including disputes about the existence or validity of these General Terms and Conditions, and all obligations (both contractual and statutory) arising from or in connection with these General Terms and Conditions, shall in the first instance be submitted exclusively (i.e. to the exclusion of other forums) to the competent Court in Amsterdam.

**15 Language**

- 15.1 In the event of a dispute about these General Terms and Conditions, only the Dutch text and meaning thereof shall be binding under Dutch law. The Dutch text will therefore prevail over any translations thereof in the Client's own language, or in any other language, as may have been made available or otherwise notified to the Client by DVI Advocatuur.

**Version:** January 2020