

Standard terms and conditions Van Diepen Van der Kroef Advocaten

1. General

- 1.1 All client instructions are, contrary to and in substitution for Articles 7:404 and 7:407 paragraph 2 BW, as well as 7a:1680 BW, exclusively accepted and carried out by the partnership Van Diepen Van der Kroef Advocaten (VDVDK). VDVDK is a partnership of private companies with limited liability (practice companies) and natural persons, or both. The combined practice companies or natural persons, as the case may be, who are members of the partnership at the time of the conclusion of the agreement are, in respect of and for the account of their collective partnership assets, the only contractual partners of the instructing party or client (Client). A list of present partners of VDVDK will be sent on request.
- 1.2 These Standard Terms and Conditions are applicable to and form part of every agreement between VDVDK and Client, as well as to agreements resulting therefrom and other acts and legal acts of VDVDK with, for or to Client. Once the Standard Terms and Conditions are applicable, they are applicable without further notice of their application to new agreements between the parties and to all extra-contractual relations between the parties, in particular tort (*onrechtmatige daad*). Work done by VDVDK on behalf of or for the benefit of Client is also to be understood as falling under the term agreements within the meaning of this paragraph.

2. Obligations of the parties

- 2.1 VDVDK shall use its best efforts to perform the agreement with Client with the requisite care and expertise. However, VDVDK does not guarantee the achievement of the desired result.
- 2.2 Client is obliged to supply VDVDK fully and in timely fashion with all facts and circumstances that could be of importance for the correct performance of the agreement, as well as all data and information desired by VDVDK. Client guarantees the accuracy and completeness of all data and information supplied to VDVDK.

3. Liability

- 3.1 As soon as Client discovers or reasonably should have discovered a possible ground for a well-founded claim against VDVDK, Client is obliged to notify VDVDK of the existence of this asserted claim against VDVDK, without delay, in writing and with supporting documents and thoroughly substantiated, on penalty of loss of all right at law. Without prejudice to Article 6:89 of the Netherlands Civil Code all right to a claim for damages against VDVDK expires one year after the event giving rise directly or indirectly to the loss incurred by Client and for which VDVDK is liable. By event within the meaning of the preceding sentence is understood also an act of omission.
- 3.2 The liability of VDVDK is always limited to the sum that in the case in question would be paid on the ground of the professional, or other, indemnity insurance or insurances that VDVDK must maintain in compliance with compulsory provisions imposed by the Netherlands Bar Council (*Nederlandse Orde van Advocaten*), increased with the sum that the insurance policies classify as excess and for which the insurers are consequently not liable. Should, for whatever reason, no payment be made by any insurer, all liability is limited to twice the sums paid to VDVDK in the calendar year in question by Client for the activities carried out on Client's behalf, with a maximum of EUR 150,000.00 (inclusive of VAT).
- 3.3 VDVDK is never liable for indirect loss, consequential loss or loss of profits. The liability of VDVDK never extends beyond what is provided for in these Standard Terms and Conditions, irrespective of whether any claim is based on agreement or any other basis, in particular tort (*onrechtmatige daad*). The limitation of liability within the meaning of Article 3 is not applicable to intention or gross negligence on the part of VDVDK, or its members or its employees, or any combination of these.
- 3.4 If persons are engaged to perform work in respect of client instructions, and wish to limit their liability in respect of such work, all client instructions given to VDVDK contain the power to accept such limitation of liability also on behalf of Client.
- 3.5 If the performance of client instructions necessitates that a person established outside of the Netherlands, who is neither attached to VDVDK nor forms part of a common venture entered into by VDVDK, is engaged to perform work within

the scope of the client instructions given, VDVDK is not liable for errors made by such person.

4. Fees and payment obligations

- 4.1 VDVDK will charge a fee for its work, based in principle on an hourly rate plus a fixed charge of 6% for office costs (plus VAT), as well as the incurred costs of third parties. VDVDK reserves at all times the right to vary the hourly rate employed by it as well as any invoiced charges. Such variation requires no prior notification. VDVDK is always entitled to demand an advance payment from Client.
- 4.2 All invoices issued by VDVDK must be paid within 14 days following the invoice date. If Client fails fully to observe the obligations relating to payment owed to VDVDK in respect of any client instructions, then, in derogation from the above, payment must be made immediately. Exceeding the above payment period places Client by operation of law in default and interest is due for delayed payment equal to the then current statutory interest under Article 6:119 Civil Code. If Client practices a profession, carries on a business or is a legal person, Client is liable, in derogation from the preceding provision, to pay the commercial rate of interest under Article 6:119 a Civil Code. Client has no right of set-off or suspension of payment. All judicial and extrajudicial costs incurred by VDVDK in respect of recovery of its claims are for the account of client, with a minimum sum equal to 10% of all unpaid invoices.
- 4.3 VDVDK is entitled to set off any sum that is, or may be claimable, either provisionally or reasonably foreseeable, or both, from Client against any sum that is, or may be liable, either provisionally or reasonably foreseeable, or both, to Client. For the purposes of this provision is to be understood also group companies of and majority holdings by Client, or both. VDVDK is entitled, in the event of a failure to make prompt payment of invoices, to suspend its performance of client instructions.

5. Miscellaneous

- 5.1 VDVDK and the Client always have the right at any time to end the agreement.
- 5.2 VDVDK is not entitled to rely on these Standard Terms and Conditions to the extent that such reliance is, entirely or in part, not permitted by its professional organization. In such cases VDVDK may exercise rights under these Standard Terms and Conditions after first obtaining permission from the Dean (Deken) of the relevant Council of Supervision of the Netherlands Bar Council (*Raad van Toezicht van de Nederlandse Orde van Advocaten*).
- 5.3 If it transpires that any provision of the agreement appears to be invalid or unenforceable, entirely or in part, such provision is herewith in such a case replaced by one or more provisions that does or do not suffer from such defect and that, as far as possible, has or have the same effect as the provision or provisions that are invalid or unenforceable. To the extent that this might be necessary the parties shall in good faith consult on the precise wording of any such substitute provision or provisions.
- 5.4 Netherlands law is exclusively applicable to the Standard Terms and Conditions and the client instructions, to the exclusion of general purchase conditions of the Client. Disputes relating to the creation or performance of the instructions given by the Client to VDVDK shall be resolved in accordance with the Bar Complaints and Disputes Committee procedure (*Klachten en Geschillencommissie Advocatuur*), the text of which is reproduced on the website of VDVDK indicated below. If any dispute between the parties is not suitable for resolution by the above Committee, or arises from the way the case was dealt with by the Committee or its judgment, the dispute will be referred for judgment to the competent court in a judicial district in which VDVDK has an office. However, in the latter case VDVDK is entitled to refer disputes to the competent court in the place of domicile of the Client or, where appropriate, the place where the Client is established.
- 5.5 Where there is any difference of opinion between the parties as to the content or intent, or both, of these Standard Terms and Conditions the Dutch language version of these Standard Terms and Conditions prevails and is binding.

These Standard Terms and Conditions were deposited on 12 February 2007 with the Registry of the District Court, Amsterdam under number 23/2007 and may also be viewed at www.vandiepen.com.