

## General terms and conditions of SPEE advocaten & mediation

SPEE advocaten & mediation

Wilhelminasingel 98

6221 BL Maastricht

T: 0031 - (0)43 - 365 20 88

F: 0031 - (0)43 - 210 01 00

Dutch Chamber of Commerce number: 14107569

### 1. Definitions

The following terms used in these general terms and conditions ("the general conditions") have the following definitions:

- a. The firm: SPEE advocaten & mediation B.V., a private limited company, trading under the name of SPEE advocaten & mediation, which is registered in the Trade Register of the Netherlands Chamber of Commerce under number 14107569;
- b. Client: a party that engages the firm;
- c. Fee: the remuneration - excluding disbursements and administration costs as referred to in parts d and e - agreed between the firm and the client for the performance of the contract or for the particular work in question;
- d. Disbursements: the costs incurred by the firm for the purposes of performing the contract, including (but not limited to) third party costs, court fees, extracts from the Trade Register, extracts from the registry office and extracts from the municipal population register;
- e. Administrative costs: a fixed supplement of 6% of the fee to cover office costs, including (but not limited to) telephone and fax costs, postage and the costs of photocopies;
- f. Contract: a contract for services between the client and the firm.

### 2. Scope

These general terms and conditions apply to each contract for work, including every additional, altered and/or subsequent contract, agreed with the firm, unless prior to the creation of such contract the parties explicitly agree otherwise in writing. All clauses in these general terms and conditions were drafted for the benefit of: the firm's

shareholders, the director(s) of the private limited company that is (or has been) shareholder of the firm, and all those persons who are or have been employed with the firm or are or were contracted by the firm.

### 3. Contract

- a. A contract is created once instructions are accepted by the firm. Only attorneys of the firm and employees acting under a written authorisation may validly enter into a contract on behalf of the firm.
- b. The client contracts with the firm and not with any particular attorneys associated with the firm or any employees of the firm. Accordingly, attorneys associated with the firm or any employees of the firm have no personal contractual liability. The client acknowledges that an attorney associated with the firm, or employees of the firm or, where necessary, third parties, will perform the contract under the responsibility of the firm. The provisions of Book 7 Articles 404 and 407 (2) of the Dutch Civil Code are excluded. Essentially, therefore, all instructions are deemed to have been given only to, and accepted only by, the firm, even if it is the express or implied intention of the client that the instructions should be carried out by a particular attorney associated with the firm or employee.
- c. As a departure from Book 7 Article 408 (2) of the Dutch Civil Code, the firm is entitled at all times to terminate the contract with the client, subject to compliance with the code of conduct applying to the advocacy profession.

### 4. Invoices

- a. The client is liable for the fee, plus disbursements, administration costs and VAT in respect for the performance of the contract. The firm is entitled to increase the agreed fee on an annual basis.
- b. If the performance of the contract continues for a period in excess of one month, the firm may issue an interim invoice.

- c. The firm is entitled to require the client to pay money in advance. Any advance payment shall be set off against the next invoice.
- d. In cases for which legal aid has been granted, the provisions of this article apply only to the amount of the client's contribution payable to the firm and any third-party costs.

#### 5. Payment

- a. The client will only be credited with payment if such payment is made by bank transfer into one of the firm's bank accounts or the related client account, or in cash, and subject to providing sufficient proof of payment. In the case of a bank transfer, payment is not deemed to have been made until it has been credited to the firm's bank or giro account.
- b. Payment of the firm's invoices must be made within fourteen days of the invoice date, unless agreed otherwise in writing or the relevant invoice specifies a different payment term. If payment is not made in time, the client will automatically be in breach of contract and will be liable to interest for late payment on the outstanding sum at the statutory rate.
- c. If the firm takes steps against the client to enforce payment, the cost of these steps is payable by the client. These costs will be calculated in accordance with the Extrajudicial Enforcement Costs Scale, being a sum of 15% of the principal sum or €40.00, whichever is more.
- d. The firm reserves the right to suspend its work if the client remains in breach of its payment obligations. In such a case, the firm will only perform such work as is absolutely necessary in order to comply with its duty of care. In departure from Book 7 Article 408 (2) of the Dutch Civil Code, the firm is entitled to terminate the contract with the client, subject to compliance with the code of conduct applying to the advocacy profession.

#### 6. Liability

- a. If, in the performance of engaged services, an unforeseen event - which may also mean an omission - occurs that results in liability, the liability shall not exceed the amount or amounts that SPEE advocaten & mediation is entitled to under its professional liability insurance, plus the deductible that SPEE

advocaten & mediation must pay under this professional liability insurance.

- b. If for any reason whatsoever no payment is made under professional liability insurance then any liability is limited to two times the fee charged by the firm for the relevant file for the relevant calendar year and paid by the client, up to a maximum of €50,000.
- c. The liability limitation referred to in Article 6 (a) and (b) shall also apply in the event that any engagement is wrongly refused, with loss or damage resulting from this refusal.
- d. Since the client contracts with the firm and therefore not with any attorney associated with the firm or any employee, then any personal liability of any such attorney or employee - on whatever legal basis whatsoever - is entirely excluded. Any attorney associated with the firm or any employee may rely at any time on this third-party clause in their favour.
- e. If the firm engages the services of any third party it shall do so with the necessary skill and care. However, the firm is not liable for any breaches by such third party.
- f. The limitation of the firm's liability also applies if the firm is held liable for the mistakes of any third party it engages, insofar as the provisions of part b, above, cannot be maintained, or for the failure of equipment, software, data files, registers or suchlike - without exception - used by the firm in the performance of the contract to function correctly.
- g. The contract will be performed exclusively for the benefit of the client. No third party may derive any rights from the work thus carried out.
- h. Notwithstanding Book 6 Article 89 of the Dutch Civil Code, any right of claim will expire twelve months after the client first knew, or ought to have known, of the liability. If it is not possible to establish such a point in time, then any right of claim will in any event expire twenty-four months after the date of the most recent invoice in the file to which the claim relates.

7. Legal aid granted by the Legal Aid Board

- a. The policy of the firm is not to undertake any work for a client who wishes to apply for legal aid granted by the Legal Aid Board. The client may, of course, agree to waive the

application for legal aid and thus agree that the firm will invoice for its services at the standard fee rate.

- b. The firm may, however, decide of its own volition to make an exception to section a, above, and to apply to the Legal Aid Board for legal aid on the client's behalf if the client could be eligible for this. However, the firm can give no guarantee that a legal aid certificate will be issued.
- c. In the situations referred to in part b, above, the client remains responsible for the accuracy of the information which the firm supplies to the Legal Aid Board in the application for the Certificate, as well as for the prompt supply of the diagnosis document.
- d. If the Legal Aid Board grants the Certificate, the client is held to pay a financial contribution to the firm, depending on the client's income. However, this contribution does not cover court fees, bailiff's costs, costs of translators/interpreters insofar as these are not covered in full or in part by the legal aid certificate, other third party costs, nor a possible obligation to pay the other party's legal costs. The client is responsible for the timely payment of these costs.
- e. As regards all work that is carried out *until* such time as the Legal Aid Board has issued a definitive, unconditional Legal Aid Certificate, client is required to pay an advance to the firm. This advance will cover at least the financial contribution mentioned under c), increased with the expected court fees and expected third party costs. Only after payment by the client of the aforementioned advance, will the firm commence its work, unless explicitly agreed upon otherwise. A possible expiry of deadlines due to non-payment of the advance remains the risk of the client. The same applies should the client, after granting of the Certificate, fail to pay the financial contribution under c), and/or other disbursements (such as court fees or bailiff's costs).
- f. All work that is carried out by the firm until such time as the Legal Aid Board has issued a definitive, unconditional Legal Aid Certificate is payable by the client. In such case, the hourly fee will be reduced. If the Legal Aid Certificate is not granted by the Legal Aid Board, the client is responsible for payment of the aforementioned hourly rate for all prior and forthcoming work of the firm.

- g. After closing of the case, the Legal Aid Board will carry out a test based on the financial outcome of the case. The Legal Aid Board has the right to withdraw the Certificate. Should the Legal Aid Board decide to do so, all work will be charged to the client on the basis of an reduced hourly fee;
- h. Regardless of the provisions elsewhere in this Article, the firm and the client can agree that the firm will not apply for a Legal Aid Certificate, and thus agree that the work of the firm will be carried out on the basis of an hourly fee.

8. The Dutch Money Laundering and Terrorist Financing (Prevention) Act (Wet ter voorkoming van witwassen en financiering van terrorisme, WWFT)

- 1. The Dutch Money Laundering and Terrorist Financing (Prevention) Act (WWFT) obliges the firm to verify the identity of the client and, in some cases, to screen clients before performing certain services specified in this Act. The client is required to provide on request all information needed to establish his or her identity and/or that of the ultimate beneficial owner; the work may be suspended whilst awaiting this information.
- 2. The WWFT also provides for a number of cases in which the firm is obliged - without notifying the client beforehand - to report 'unusual transactions' to the Dutch Financial Intelligence Unit (FIU).
- 3. The firm cannot under any circumstances be held liable for loss suffered or to be suffered by the client owing or in relation to a report being filed under the WWFT, even if that report was incorrect, other than in cases of intentional act or omission, gross negligence, or wilful recklessness on the part of the firm.
- 4. The firm cannot under any circumstances be held liable for loss suffered or to be suffered by the client owing or in relation to fact that the firm has not been able to start or continue the work because the identification procedure referred to under paragraph 1 has not yet been completed, other than in cases of intentional act or omission, gross negligence, or wilful recklessness on the part of the firm.
- 5. The client indemnifies the firm against claims of third parties regarding loss they have suffered owing or in relation to a report being filed under the WWFT in connection with the

engagement in question, even if that report was incorrect, other than in cases of intentional act or omission, gross negligence, or wilful recklessness on the part of the firm.

## 9. Disputes

- a. All contracts between the client and the firm are governed by Dutch law.
- b. The services provided by the firm are governed by the Complaints Regulation of SPEE advocaten & mediation. Both the client and the firm are entitled to bring a dispute before the Dispute Committee (*Geschillencommissie Advocatuur*). Yet, before bringing a dispute before the Dispute Committee, the client is obliged to bring his complaint to the attention SPEE advocaten & mediation, in order to follow the firm's Complaint Regulation. The client has to bring his complaint to the attention of SPEE advocaten & mediation within three months after the moment during which the client has taken note, or was reasonably able to take note, of the acts or omissions that gave rise to the complaint;
- c. Within four weeks after the complaint of the client was brought to the attention of SPEE advocaten & mediation, SPEE advocaten & mediation will offer a solution to the client, in writing. In case the client does not agree with this proposed solution, the client is held to submit his complaint to the Dispute Committee (*Geschillencommissie Advocatuur*, P.O. Box 90600, 2509 LP The Hague) within twelve months after the written reply of SPEE advocaten & mediation;
- d. SPEE advocaten & mediation is entitled to submit unpaid invoices to the Dispute Committee, in order for the Committee to collect these invoices;
- e. The Dispute Committee is competent to decide upon complaints concerning the quality of the services provided by the lawyer, as well as complaints about the amount of the invoices. The Committee is also competent to decide upon claims up to €10,000. Claims exceeding €10,000 can only be brought before the Dispute Committee when the claim is limited to €10,000 and the claimant waives his right to claim the remainder;
- f. The Dispute Committee will rule by means of an arbitral award about commercial services. In case the services are provided to individuals, the regulations of the Dispute Committee provide

for binding advice, unless the private client will address a regular court within one month after the handling of the complaint by SPEE advocaten & mediation. In case of a collection of a claim from an individual, there will be binding advice only when the client deposits the amount with the Dispute Committee. In case the client does not deposit the amount to the Dispute Committee, arbitration also applies to the collection procedure;

- g. The Dispute Committee will give its decision without the possibility of bringing the matter before a regular Court. Appeal against a decision of the Dispute Committee is not possible.

10. Final provisions

- a. The contract between the firm and the client is also governed by the written confirmation of instructions agreed with the client, the provisions of which form an integral part of the contract with the client, together with these general terms and conditions.
- b. In the unlikely event that any provision of these general terms and conditions is in conflict with any term agreed between the parties in the confirmation of instructions, then the terms of the confirmation of instructions will take precedence.