

## GENERAL CONDITIONS

### 1.0. **Hertoghs advocaten**

- 1.1. Hertoghs advocaten is the trade name of Hertoghs advocaten-belastingkundigen B.V. Hertoghs advocaten-belastingkundigen is a private limited company with its registered office in Breda and offices in Amsterdam and Rotterdam. Its object is to practise the attorney profession.
- 1.2. The provisions in these general conditions have been drawn up not only for Hertoghs, but also on behalf of all persons working for Hertoghs or who were working for Hertoghs at the time of the services being provided, on behalf of all persons engaged by Hertoghs for providing any services and on behalf of all persons whose action or failure to act could result in statutory liability for Hertoghs (“third-party clause”).

### 2.0. **Contract for services**

- 2.1. These general conditions apply to all contracts to provide services that may be entered into between the client and Hertoghs (including any supplementary and subsequent contracts to provide services), and to the phase prior to the establishment of a contract for services.
- 2.2. A contract for services is established between a client and Hertoghs, and so not with persons working for Hertoghs. This applies also if it is the client’s express or tacit intention for the services to be performed by a specific person. The effect of Article 404, Book 7, of the Dutch Civil Code, which makes provision for the latter case, and the effect of Article 407(2), Book 7, of the Dutch Civil Code, which establishes joint and several liability in cases where two or more persons enter into a contract for services, are explicitly excluded.
- 2.3. After consulting the client, Hertoghs determines which employees are to provide the services under its responsibility. If such person(s) is/are absent or unable to provide the services, Hertoghs may arrange for the services to be provided by another employee or other employees.
- 2.4. Hertoghs will notify the client in writing when the client’s file is closed. Hertoghs will subsequently retain the file for twenty years.
- 2.5. The client may (potentially) be eligible for free legal aid if his/her income falls below the standards for income and assets set by the Dutch Minister of Security and Justice under the Legal Aid Act [*Wet op de Rechtsbijstand*] or if the client is or has been held in detention. The client has, however, explicitly chosen – including if the above situation arises during the provision of services – not to make use of this opportunity, such that the agreed financial conditions apply and will continue to apply.

### 3.0. **Liability**

- 3.1. If the provision of services by Hertoghs results in any liability for Hertoghs, any such liability is always limited to the amount paid out by Hertoghs’ insurer under the applicable professional indemnity insurance, including the excess payable in the relevant case by Hertoghs under this indemnity insurance.
- 3.2. The contents and conditions of the professional indemnity insurance arranged by Hertoghs exceed the requirements set in this respect by the Netherlands Bar Association.
- 3.3. Liability for indirect or consequential loss or damage is excluded under all circumstances.
- 3.4. Any claims relating to alleged liability on the part of Hertoghs must be submitted in writing, stating the reasons for the claim, as soon as possible and in any event within 12 months after handling of the case in question ends.
- 3.5. Performance of the contract to provide services is solely for the client. No third parties may derive any rights from the contents of the contract to provide services or from any activities performed, including if such parties can be regarded as having a direct or indirect interest in the result of the activities. Hertoghs does not accept any liability to third parties for services provided for a client.
- 3.6. If the client alleges any liability for Hertoghs as a result of services provided, the client must address the claim to Hertoghs and mark it for the attention of the Board.

**4.0. Engagement of third parties**

- 4.1. The choice of third parties to be engaged by Hertoghs (including but not limited to other attorneys and specialists) will, wherever possible and reasonable, be made after consulting the client and with the degree of care that can reasonably be expected of Hertoghs. Hertoghs accepts no responsibility for the way in which third parties perform their work and is not liable for any shortcomings by these third parties, except in the event of intent or gross negligence on the part of Hertoghs.
- 4.2. If such third parties want to limit their liability for performing a contract to provide services for Hertoghs' client, Hertoghs may accept such a provision without prior consultation of the client.

**5.0. Indemnification by client against claims by third parties**

- 5.1. The client indemnifies Hertoghs, as well as all persons referred to in Article 1.2 above, against all third parties that claim they have suffered loss or damage through or as a result of services provided by Hertoghs for the client.

**6.0. Fees and payments**

- 6.1. Hertoghs may periodically amend its applicable hourly rates (with effect from 1 January of each year). The client will be informed in writing and as soon as possible of any change in the hourly rates.
- 6.2. The fee for services provided by Hertoghs is determined on the basis of the number of hours worked, multiplied by Hertoghs' hourly rate. In addition, the client is charged a fixed fee for office costs. This amounts to 6% of the above fee, value added tax (if applicable) and any disbursements (such as court fees, bailiff costs and the like).
- 6.3. Hertoghs may also demand a retainer before starting to provide contractual services. This retainer is intended to cover current costs and will not be set off against any interim invoices, unless explicitly agreed otherwise. It will therefore always be carried over to the next billing period and set off against the final invoice. A further retainer and/or additional security may be demanded, if considered necessary. No credit interest is payable on the retainer.
- 6.4. Hertoghs aims to prepare and send an invoice to the client within around 3 weeks after the end of each month.
- 6.5. Invoices issued by Hertoghs must be paid within 15 days after the invoice date, without any deduction, suspension or set-off. Objections by the client must be notified to Hertoghs in writing as soon as possible, and in any event within 15 days of the invoice date, with reasons for the objection being stated, and payment made of any undisputed amount of the invoice.
- 6.6. If an invoice issued by Hertoghs is not paid within the agreed period, interest of 1% per month is payable on the amount of the invoice. If all or part of an invoice remains unpaid despite a demand for payment, out-of-court collection costs become due in the amount of 15% of the total outstanding sum, with a minimum of €250.00. Hertoghs may outsource collection to a third party. Hertoghs may then also suspend provision of its services. Hertoghs will notify the client in writing if it suspends provision of its services.
- 6.7. Any opportunities to recover the costs of assistance provided by Hertoghs will be taken in liaison with the client and wherever possible. In principle, however, such opportunities and/or any applicable restrictions do not affect these general conditions, unless agreed otherwise (as, for example, in the case of the provisions set out in Article 4 above).

**7.0. Complaints**

- 7.1. Hertoghs has arrangements in place for handling complaints which can be found on the website. Any complaint by the client about services provided must be submitted to Hertoghs and marked for the attention of the attorney to whom the complaint relates. After examining the complaint, this attorney will consult the client as soon as possible to see how the complaint can be resolved. If these consultations do not result in a satisfactory solution, the complaint will be transferred to the Hertoghs officer responsible for handling complaints.

- 7.2. If a client has any complaint of a disciplinary nature in respect of services provided by Hertoghs, Hertoghs will notify the client of the Netherlands Bar Association's procedures for handling complaints.
- 8.0. **Miscellaneous**
- 8.1. All agreements between the client and Hertoghs are governed by Dutch law.
- 8.2. Any disputes will be submitted for resolution exclusively to the competent court in the district in which Hertoghs has its registered office. Hertoghs may nevertheless choose to submit disputes to the competent court in the district in which the client is resident or has its registered office.
- 8.3. These general conditions are available in Dutch and English. In the event of any difference in interpretation between the Dutch and English texts, the provisions of the Dutch text prevail and are binding.

Breda, January 2020