

## General Terms & Conditions 2019

### Terms used

1. These General Terms & Conditions apply to all activities undertaken or to be undertaken by or on behalf of the partnership Franken|Zuur|vanKampen Advocaten (hereinafter referred to as 'FZvK'), having its registered office in Amsterdam and listed in the Commercial Register of the Chamber of Commerce under file number 34393409.

2. In these General Terms & Conditions, 'FZvK-related persons' will be taken to mean those people who are, have been or, at some point in time, may come to be partners in FZvK, as well as those persons who work or worked for or were in any other manner related to FZvK.

3. In these General Terms & Conditions, 'client' will be taken to mean the person who, with a view to FZvK carrying out work, enters into an agreement of assignment or other agreement or intends to do so with regard to the aforementioned work or has some other legal relationship with FZvK. 'Work' will, also, be taken to mean the provision of services or other performances of whatever kind.

### Acceptance and termination of the assignment

4. All assignments will solely be accepted and carried out by FZvK. This also applies if it is emphatically or tacitly the intention that the assignment be carried out by one or more specific, FZvK-related person(s). The applicability of Articles 7:404 and 7:407, Paragraph 2, of the Dutch Civil Code (Burgerlijk Wetboek) is emphatically excluded. In the event of assumed liability concerning the execution of any assignment from the client, the client agrees to solely seek recompense from FZvK.

5. The work carried out and the services provided by FZvK are solely intended for the client and for the purpose for which the assignment was granted. Advice may only be communicated to third parties with FZvK's

prior approval. FZvK is not liable for any possible consequences resulting from the use of this advice by third parties.

6. The client is entitled to terminate the assignment at any time, in writing.

7. FZvK is free to terminate the assignment for valid reasons, observing a reasonable notice period.

8. Termination of the assignment does not lead to any fees already owed, including as yet unclaimed fees, no longer having to be paid.

### Engaging third parties

9. If FZvK engages a third party, i.e. a person not related to the firm, in connection with the work assigned to it, FZvK will employ the necessary diligence when selecting this person and will consult as much as possible with the client in advance. FZvK is not liable for any mistakes or shortcomings this third party may evidence in the execution of their work. The client authorises FZvK to accept third party conditions including any possible limitation(s) of liability on behalf of the client.

### Exclusion and limitation of liability

10. Any FZvK liability for work (to be) carried out by or on behalf of FZvK or otherwise connected to the assignment granted to FZvK or any other legal relationship FZvK has entered into with regard to the work is, howsoever caused, limited to the sum that is or would be paid out on the basis of the FZvK concluded professional liability insurance in the case concerned increased by the amount of the deductible which, in the case concerned, is for FZvK's account on the basis of the aforementioned insurance. This limitation of FZvK's liability applies irrespective of whether the liability arises from an agreement, law or other legal reason.

11. If, in the case concerned, for whatever reason, no pay out is effected under the FZvK concluded professional liability insurance,

FZvK's liability is, howsoever caused, limited to the sum FZvK charged for the assignment concerned (including btw [Dutch VAT]), to a maximum of € 50,000 (fifty thousand euros).

12. All claim rights against FZvK in connection with the execution of the work carried out or assigned to FZvK (including claims with regard to the paying of damages) lapse after one (1) year after the day on which the client became aware of or could reasonably be assumed to have been aware of these claim rights or the damage or loss and FZvK's possible liability for this. In all cases these claim rights lapse after two (2) years after the work was carried out by or on behalf of FZvK.

13. Every liability of any persons connected to FZvK towards the client and third parties is expressly excluded. The client will, if necessary in advance, partly on behalf of third parties linked to the client waive all their rights and claims which they, for whichever reason may gain towards the persons linked to FZvK.

14. Without prejudice to Articles 4 and 13, these General Terms & Conditions and the exclusions or limitations of liability described therein can also be availed of by and for the benefit of (a) every person involved in the carrying out of the assignment or anyone who – in connection with the aforementioned – for whatever reason bears any liability or comes to do so and (b) by FZvK linked persons as well as their respective legal successors under universal title.

15. Except in the event of intentional acts or omissions or wilful recklessness on FZvK's part, the client will indemnify FZvK and those persons linked to it, and the client will reimburse FZvK and the persons linked to it for all claims and legal claims a third party may, at any time, have or may instigate against FZvK or persons linked to the latter resulting from or in connection with the work carried out by FZvK for the client's benefit. This indemnification also includes legal assistance costs.

#### **Fee and expense claims**

16. Unless agreed otherwise in writing, the client owes FZvK a fee calculated on the basis of the number of hours worked multiplied by the applicable hourly rates as laid down by FZvK from time to time. Besides the fee, the client also owes FZvK the out-of-pocket expenses (external costs) FZvK incurred for the client's benefit. All the sums owed will be increased by VAT at the rate applicable at that time. FZvK does not charge office costs.

17. The work will, in principle, be invoiced to the client on a monthly basis. FZvK's invoices must be paid within fourteen (14) days after the invoice date. Payment must be made according to the method outlined on the invoice. In the event no payment is effected within thirty (30) days, the client will have legally defaulted on the payment. In the event of untimely payment, FZvK has the right to charge the legal interest rate on the unpaid sum as of the thirtieth (30th) day after the invoice date. The client will be charged for any collection incurred in accordance with the rate specified by the Netherlands Bar (Nederlandse Orde van Advocaten).

18. FZvK is always entitled to demand one or more advance payments with settlement afterwards from the client, preceding or for the continuation of its services. In the event of untimely payment, FZvK is – after having given notice thereof – entitled to not start, suspend or stop its work.

#### **Identification and Wwft**

19. On the basis of the applicable laws and regulations, including the Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme (Wwft)*), FZvK is obliged to ascertain the identity of its clients and where applicable that of the ultimate beneficiary or beneficiaries. The law obliges FZvK to report unusual transactions as defined by the Wwft to the authorities under all circumstances. The Wwft bars FZvK from telling the client or others that such a report has been made.

### **Processing of personal and other data**

20. FZvK is responsible for processing personal details as part of its services. FZvK ensures technical and organisational measures are in place to prevent unauthorised or illegal processing of personal details as indicated by law.

21. FZvK is only authorised to utilise the information the client provided to it as well as other data and information FZvK took cognisance of during the execution of its assignment for the purpose for which said information was provided or obtained. The exception being that FZvK and/or persons who work or worked for FZvK may use this information in disciplinary, criminal, civil or administrative procedures brought against them connected to the services provided to the client in connection with which the data was made available or FZvK took cognisance thereof. FZvK will thereby exercise the necessary care and will consult with the client where possible.

### **Communication**

22. Electronic communication, including email, has the validity of the written word. The client agrees to electronic communication and recognises that this is inherently unsafe. FZvK cannot be held liable for the interception, manipulation, delay, incorrect forwarding or virus infection of electronic communication. In the event the client acts in the exercise of a profession or business, Article 6:227b, Paragraph 1, of the Dutch Civil Code (Burgerlijk Wetboek), pertaining to the provision of information in electronic commercial activity, and Article 6:227c of the Dutch Civil Code, pertaining to the manner in which agreements are concluded in electronic commercial activity, do not apply.

### **Archiving**

23. Completed files are, in principle, archived by FZvK for five (5) years. If the client wishes the files pertaining to the assignment to be

archived for longer they should inform FZvK to that effect.

### **Office complaints procedure**

24. In the event of disputes, FZvK's office complaints procedure applies. This procedure can be found on our website: [www.fzvkn.nl](http://www.fzvkn.nl).

### **Applicable law and competent court**

25. Every contractual and non-contractual legal relationship between FZvK and the client resulting from or in connection with the work carried out by or on behalf of FZvK or assigned to it is subject to Dutch law. In as far as a legal relationship exists between a person connected to FZvK and the client, this legal relationship will also be subject to Dutch law.

26. All disputes arising from or related to the work carried out by or on behalf of FZvK or assigned to it or otherwise concerning the legal relationship with the client, are in the first instance subject to the exclusive jurisdiction of and will exclusively be settled by the District Court of Amsterdam, unless a dispute is submitted to a dispute committee and the latter is authorised to adjudicate in the matter.

### **Language**

27. These General Terms & Conditions were drawn up in the Dutch language and were subsequently translated to English and can also be perused on the FZvK website: [www.fzvkn.nl](http://www.fzvkn.nl). In the event of contradictions between the Dutch and English texts or the explanation thereof, the Dutch General Terms & Conditions will be binding.

### **Amendment of the General Terms & Conditions**

28. FZvK may amend these General Terms & Conditions from time to time and without preceding notification. The amended General Terms & Conditions will then apply to all subsequent legal relationships with the client.

Amsterdam, 1 October 2019