

GENERAL TERMS AND CONDITIONS

SCHAAP ADVOCATEN NOTARISSEN



1. Schaap

Schaap Advocaten Notarissen (“Schaap”) is a partnership of private limited liability companies. Schaap has its registered office in Rotterdam and is listed in the Commercial Register of the Chamber of Commerce under file number 24479532.

2. Applicability of these general terms and conditions

2.1 These general terms and conditions apply to any assignment to or agreement with Schaap and to all legal relationships relating thereto, including legal relationships in the phase before an assignment becomes final (even if the assignment ultimately does not become final). This also applies to future, amended and additional assignments and follow-up assignments.

2.2 Also those natural persons and legal entities that are directly or indirectly affiliated with Schaap and/or are in any way involved in the provision of services by or on behalf of Schaap may invoke these general terms and conditions. Schaap and the natural persons and legal entities referred to above are also referred to below jointly and individually as: “Schaap et al”. These natural persons and legal entities include current, former and future employees, attorneys and civil-law notaries, including candidate civil-law notaries, and partners of Schaap, the Foundation for the Management of Clients’ Funds (*Stichting Beheer Derdengelden*), freelancers and consultants, temporary employees, and natural persons and legal entities with whom a cooperation agreement has been entered into. This provision (Article 2.2) is an irrevocable third-party clause for no consideration referred to in Section 253 Book 6 Dutch Civil Code.

3. Assignments

3.1 Only Schaap is considered the client’s contracting party. This excludes the operation of Sections 404 Book 7 (which provides for a regulation in the event that an assignment is intended to be performed by a specific person), 409 Book 7 (which provides for a regulation in the event that the assignment is given with a view to a specific person and that person dies) and 407 Subsection 2 Book 7 (which establishes joint and several liability if an assignment is given to two or more persons) of the Dutch Civil Code and any other regulation that would lead to joint and several liability of a natural person or legal entity involved in the provision of services by or on behalf of Schaap.

3.2 In so far as a civil-law notary associated with Schaap is (or is also) personally considered the contracting party by law, these general terms and conditions apply (or also apply) to the legal relationship between the client and that civil-law notary.

4. Liability of third parties

4.1 An assignment is only carried out for the client, not also for those involved with the client.

4.2 The client indemnifies Schaap et al. against all claims by third parties relating to an assignment and/or services rendered for the client. Also defence costs incurred by Schaap et al. against such claims by third parties are borne by the client.

5. Liability in general

5.1 Any liability in connection with an assignment and/or services rendered for the client is limited to the amount paid out in the matter concerned under Schaap’s applicable liability insurance, plus the fixed amount of the deductible set out in the policy conditions that is not borne by the insurer.

5.2 If payment is not made under the insurance referred to in Article 5.1 (for whatever reason, except for Schaap’s failure to meet its obligations to the insurer), the total liability in connection with an assignment and/or services rendered for the client is limited to the amount of the fee owed and paid by the client to Schaap in respect of the assignment in question, up to a maximum of € 100,000. The “total liability” is the liability that may be added up, based on whatever legal basis or legal grounds (including obligations to undo).

5.3 The *limitations* of the scope of liability in these general terms and conditions (such as in Articles 5.1 and 5.2) do not prejudice the *exclusions* of liability in these general terms and conditions (such as in the Articles 5.4, 5.5, 6.2, 7 and 10.9). In addition: if an *exclusion* of liability does not apply in a given case, then the *limitations* of the scope of liability apply without prejudice.

5.4 Liability for indirect or consequential damage is excluded under all circumstances. Examples of such damage are: loss of profit, missed savings, loss due to business interruption, loss due to delay and contractual penalties to be paid to third parties.

5.5 Schaap makes an effort to prevent “cyber incidents” and to limit their negative consequences. A “cyber incident” is a breach of the security policy of a computer

system (in the broadest sense of the word) to affect its integrity or availability and/or the unauthorised access or attempted unauthorised access to a computer system; examples are malicious disruption and/or denial of service (in addition to unauthorised access or attempted unauthorised access to a computer system and/or data (possibly resulting in data breaches)). If liability in connection with a cyber incident is not covered by a liability insurance taken out by Schaap, (for whatever reason, except for Schaap’s failure to meet its obligations to an insurer under an insurance policy taken out) then – contrary to the provisions in Article 5.2 – that liability is excluded.

5.6 Claims for damages lapse if they are not brought before the competent court within one year after discovery of the damage.

5.7 The limitations and exclusions of, and indemnities against liability contained in these general terms and conditions do not apply insofar as liability is the result of wilful misconduct, gross negligence or deliberate recklessness on Schaap’s part and/or of the legal entities referred to in Article 2.2 or of the persons charged with the management of its business or their businesses and/or the civil-law notary referred to in Article 3.2.

6. Engagement of third parties

6.1 Schaap may engage third parties for the performance of assignments.

6.2 The choice of third parties to be engaged by Schaap is made, where customary, possible and reasonably indicated, after consultation with the client and subject to the care that can reasonably be expected of Schaap. Schaap is not responsible for the way in which these third parties carry out their work and is not liable for shortcomings of these third parties.

6.3 Schaap is authorized to accept, also on the client’s behalf, the terms and conditions that apply to the relationship between it and the third party or that are stipulated by the third party, including a limitation of liability, without prior consultation with the client. Schaap may rely on such terms and conditions towards the client in as much as it concerns the performance of the assignment by such third party.

7. Money Laundering and Terrorist Financing (Prevention) Act (Wwft)

(Wet ter voorkoming van witwassen en financieren van terrorisme (Wwft))

Schaap et al. are not liable for any damage that a client has suffered, suffers or is yet to suffer in connection with:

- the fact that Schaap et al. have not rendered or continued substantive services because the Wwft prohibits this in Schaap’s opinion;
- the fact that Schaap has terminated an assignment because the Wwft obliges it to do so in Schaap’s opinion;
- a report of an ‘unusual transaction’; and/or
- a feedback report to the Chamber of Commerce within the framework of the UBO register or the Trust register.

8. Fee and costs

8.1 Unless otherwise agreed, Schaap charges hourly rates for work and possible travel and waiting hours. The hourly rates depend, among other things, on the number of years of experience of the file handlers and may be increased in subsequent calendar years. If the client is a consumer (a natural person who is acting for purposes which are outside his or her trade, business, craft or profession) and the increase in an hourly rate takes place within three months of the agreement entered into between Schaap and the client, the client has the right to terminate the agreement. This right to terminate the agreement expires on the fifteenth day after the date of the first fee note sent to the client following the increase in the hourly rate.

8.2 The fee (hours x rates) is supplemented with a fixed surcharge to cover general office expenses of 6% of the fee and with possible travel expenses, possible costs of third parties (such as costs of the Chamber of Commerce, courts of law (court registry), bailiffs, the Land Registry, the Key Register of Persons (*Basisregistratie Personen (BRP)*), the Guardianship and Insolvency Register and the Verification Information System (VIS), the Central Register of Wills and the Central Register of Living Wills, the Royal Dutch Association of Civil-law Notaries (*Koninklijke Notariële Beroepsorganisatie*) (KNB) (notarial deed charges imposed by the KNB), data suppliers and other third parties within the framework of Schaap’s integrity policy and external translators), possible negative interest and internal financial settlement costs for the use of our clients’ account and to cover bank charges (see Article 10) and finally the applicable turnover tax.

- 8.3 The time spent because of Schaap's integrity policy (including compliance with the Wwft (Money Laundering and Terrorist Financing (Prevention) Act)) is charged on the basis of the hourly rates applied by Schaap.
- 8.4 The fee (hours x rates) referred to in Article 8.1, the costs referred to in Article 8.2 and the time referred to in Article 8.3 are also due:
- if a civil-law notary or attorney refuses his or her services (referred to in Section 21 Subsection 2 of the Civil-Law Notaries Act (*Wet op het notarisambt*) or Article 7.3 of the Legal Profession Regulations (*Verordening op de advocatuur*));
 - if Schaap et al. have not rendered or have not continued substantive services because the Wwft prohibits this in Schaap's opinion; and/or
 - if Schaap has terminated an assignment because the Wwft obliges Schaap to do so in Schaap's opinion.

9. Payments

- 9.1 Schaap may require payment of a retainer fee before commencing services in connection with the assignment. The retainer fee is set off against the final fee note that is sent to the client in the matter concerned.
- 9.2 Schaap aims at sending fee notes on a monthly basis, but in any event when the case in question is closed. The payment term is 14 days from the date of the relevant fee note. If the fee note is not paid in time, the client owes the statutory interest or statutory commercial interest from the 15th day onwards. If the client has any objections to a fee note, he must notify Schaap in writing, stating reasons, as soon as possible but in any event within the payment term, while paying that part of the fee note to which there are no objections. For the rest, suspension is excluded. Setoff by the client is excluded under all circumstances.
- 9.3 At Schaap's first request, the client is obliged to provide Schaap with security rights to be determined as security for the fulfilment by the client of its payment obligations towards Schaap.
- 9.4 Schaap may suspend the assigned services if fee notes and/or retainer fees are not settled within the payment term in question, or if, in Schaap's opinion, the credit risk on the client is considered too high or the continuity of the client's business operations is not sufficiently assured.
- 9.5 If fee notes are left unpaid wholly or partly for 30 days from the fee note date, Schaap may charge extrajudicial costs of 15% of the amount to be collected with a minimum charge of € 150, except when the client is a consumer (a natural person who is acting for purposes which are outside his or her trade, business, craft or profession), in which case extrajudicial costs are charged in accordance with the legal provisions in force. All extrajudicial and legal costs related to the collection of fee notes are borne by the client. The court costs are not limited to the assessed legal costs, but will be charged in full to the client if the client fully or predominantly does not succeed in his action.

10. Clients' account

- 10.1 Schaap, its attorneys and civil-law notaries and the Foundation for the Management of Clients' Funds Schaap Advocaten (*Stichting Beheer Derdengelden Schaap Advocaten*) may obtain funds from the client or third parties ("clients' funds") in the performance of the services. Clients' funds are held in a "clients' account" (this also includes a clients' account as referred to in Article 25 of the Civil-Law Notaries Act (*Wet op het notarisambt*)). On total balances on clients' accounts, banks charge positive interest, no interest or negative interest. A share of a party entitled to the clients' account is hereinafter referred to as the "amount concerned".
- 10.2 Positive interest on the amount concerned is paid to each party entitled if the relevant clients' funds have been in a clients' account for more than five working days.
- 10.3 Negative interest on the amount concerned may be charged to any party entitled (even if the clients' funds concerned are less than a threshold amount used by the bank concerned to levy negative interest). Schaap informs each party entitled of the method of charging negative interest on the amount concerned. If the interest rate of the bank concerned changes, or if the threshold used by the bank for that purpose changes, then the method of passing on the negative interest to Schaap changes accordingly. Each party entitled must pay the negative interest, or the expected negative interest, into the clients' account upon first request; if that request is not complied with, the negative interest may be deducted from the amount concerned.
- 10.4 For the use of a clients' account, Schaap may charge costs to any party entitled (in addition to any negative interest). These costs include, for example, bank charges, costs for making transfers via the clients' account and costs for making an interest calculation (for which Schaap may charge a prefixed amount), but also judicial and extrajudicial costs arising from a dispute between the client and a third party regarding the entitlement to the clients' funds concerned.
- 10.5 In addition to the costs referred to in Article 10.4, the time spent on external communication regarding the management of the clients' funds involved is charged on the basis of the hourly rates applied by Schaap.

- 10.6 The transferability and pledging of claims of a party entitled in respect of the amount concerned is excluded (as referred to in Section 83 Subsection 2 Book 3 Dutch Civil Code).
- 10.7 Schaap, its attorneys and civil-law notaries and the Foundation for the Management of Clients' Funds Schaap Advocaten (*Stichting Beheer Derdengelden Schaap Advocaten*) may repay the amount involved if the transaction for which those monies are intended does not take place or does not take place for the time being (for whatever reason).
- 10.8 Schaap, its attorneys and civil-law notaries and the Foundation for the Management of Clients' Funds Schaap Advocaten (*Stichting Beheer Derdengelden Schaap Advocaten*) may transfer the amount concerned to a clients' account with another Dutch bank.
- 10.9 Schaap et al. are not liable for the consequences of a situation in which a bank involved does not meet its obligations or does not do so in time, such as in the event of bankruptcy or suspension of payments.

11. Notarial services for a consumer

- 11.1 The provisions of this article (Article 11) apply if a consumer instructs Schaap to render notarial services; this in addition to and partly in deviation from the provisions of other articles in these general terms and conditions. A "consumer" is a natural person who is acting for purposes which are outside his or her trade, business, craft or profession.
- 11.2 Schaap informs the client in time and clearly about the financial consequences of its engagement, it informs the client in time when more costs will be charged than agreed and it must not charge the costs of its services to another assignment, another part of the assignment or any other than the client.
- 11.3 A Complaints and Dispute Settlement Scheme for the Notarial Profession is in force. Please visit www.knb.nl/english (website of the Royal Dutch Association of Civil-law Notaries (*Koninklijke Notariële Beroepsorganisatie*)) and www.degeschillencommissie.nl/english (website of the Dutch Foundation for Consumer Complaints Boards (*De Geschillencommissie*)).
- 11.4 Disputes may be submitted to the competent court in the Netherlands or to the Dutch Foundation for Consumer Complaints Boards (*De Geschillencommissie*). This article applies instead of the provisions of Article 12.3.
- 11.5 Schaap abides by all existing rules of professional conduct and practice. An explanation in Dutch of these rules can be found in the consumer brochure '*Spelregels voor notaris en consument*' (Rules of the game for civil-law notaries and consumers), drawn up by the Royal Dutch Association of Civil-law Notaries (*Koninklijke Notariële Beroepsorganisatie*) in consultation with the Dutch Consumer Association (*Consumentenbond*) and the Dutch Association of (Prospective) Homeowners (*Vereniging Eigen Huis*). This brochure is available on www.knb.nl and will also be sent free of charge on request.

12. Final provisions

- 12.1 Dutch law applies to all agreements between the client and Schaap and to all other legal relationships referred to in Article 2. The operation of the Dutch conflict of laws (international private law), on the basis of which the law of another jurisdiction may or may also apply, is excluded.
- 12.2 Schaap has an office complaints procedure that applies to any agreement between Schaap and its client. The procedure can be found on www.schaap.eu/en and will also be sent free of charge on request.
- 12.3 The Rotterdam Court has exclusive jurisdiction to settle disputes (in the first instance). Schaap is also authorised to submit disputes to the competent court of the other party's place of residence or domicile in the Netherlands. "Disputes" also includes complaints that have not been resolved to the client's satisfaction under the office complaints procedure.
- 12.4 These general terms and conditions are drawn up in various languages. In the event of any difference in content or purport between the language versions of these general terms and conditions, the Dutch text is binding.

Filed with the Rotterdam Court on December 6, 2021 (registration number 52/2021).