nysingh

General terms and conditions for the provision of services by Nysingh advocaten-notarissen N.V., having its registered office in Utrecht and further places of business in Arnhem and Zwolle.

I. Definitions

In these general terms and conditions the terms below are to be understood as follows:

a. Nysingh: Nysingh advocaten-notarissen N.V., with its registered office in Utrecht, with its places of business in Arnhem and Zwolle.
b. Client: the person (including natural persons and legal entities) with which Nysingh has concluded a contract for services or other agreement to perform services or other performance, or that is otherwise in a legal relationship with Nysingh.
c. Consumer: a Client who is a natural person and who is not acting in the exercise of a profession or the operation of a business.
d. Firm: Nysingh and/or persons employed by Nysingh who are engaged by Nysingh in the performance of the Agreement.
e. Fee: the financial remuneration (on a time-spent basis or otherwise) which Nysingh has agreed with the Client for the performance of its work or which applies to the work in question.
f. Office Expenses: the fixed surcharge on top of the Fee to meet the costs of office facilities, among other things.
g. Agreement: the contractual relationship between Nysingh and the Client.
h. Parties: Nysingh and the Client together.
i. Disbursements: those costs arising for Nysingh in connection with the performance of the Agreement which are neither Fees nor Office Expenses.
j. Clients' Account: a special account as referred to in Section 25 of the Civil-law Notaries Act in the name of one or more civil-law notaries affiliated with Nysingh.

II. Scope

These general terms and conditions shall apply to every existing and future Agreement unless the Parties agree otherwise in writing prior to the effectuation of the Agreement.

III. Agreement

a. In the creation of the Agreement, Nysingh may only be represented by lawyers, civil-law notaries and/or junior civil-law notaries who are associated with Nysingh or by other persons employed by Nysingh by virtue of a written power of attorney.
b. The Client agrees that Nysingh shall have the Agreement performed under its own responsibility by the Firm or, if necessary, by third parties. Section 7:404 and Section 7:407(2) of the Dutch Civil Code shall not apply.
c. Without Nysingh's prior written consent, the Client shall not divulge the content of the Agreement, procedural documents, recommendations or other statements made by Nysingh in writing or otherwise to third parties, unless they are drawn up or made with the intention of providing this information to third parties. The Client shall also ensure that third parties are unable to take note of the information referred to in the previous sentence unless such taking note is associated with or ensues from the Agreement.
d. The Client agrees that the Firm shall correspond by digital means with it and with third parties, including any opposite parties and their legal advisors.
e. Both the Client and Nysingh are entitled to terminate this Agreement with immediate effect.

IV. Information regarding the Anti-Money Laundering and Anti-Terrorist Financing Act (Wwft) – Duty to report and client due diligence

The purpose of the Anti-Money Laundering and Anti-Terrorist Financing Act (Wwft) is to prevent money laundering and terrorist financing. In that context, civil-law notaries and lawyers have an obligation to perform client due diligence. They are also required to report any unusual transactions encountered by them. The Wwft applies to almost the entire field of work of the notary, and to part of that of the lawyer. Nysingh has drafted an information sheet on the obligations that apply for lawyers and civil-law notaries, which it will send to clients at their request.

V. Invoicing

a. Unless the Parties agree otherwise in writing, the Client shall be obliged to pay the Fee plus Office Expenses, Disbursements and value added tax for the performance of the Agreement.
b. If the Fee is calculated on a time-spent basis, Nysingh's time accounting shall be binding unless the Client demonstrates the inaccuracy of the statement of hours.
c. Work performed may be invoiced at intervals if the performance of the Agreement extends over a period of more than one month.
d. If the Agreement is terminated before the Firm has completed the agreed work, the Client shall be obliged to pay the Fee for the work already performed by the Firm, unless agreed otherwise in writing. This Fee shall consist of the hours already spent but not yet invoiced by the Firm multiplied by the hourly rate applicable to the employee(s) who has/have performed the work.
e. If the Agreement is terminated before the Firm has completed the agreed work and this termination is attributable to the Client, the Client shall, irrespective of arrangements to the contrary, be obliged at Nysingh's discretion to pay the Fee or an amount equivalent to the hours already spent by the Firm multiplied by the hourly rate applicable to the employee(s) who has/have performed the work.
f. The Fee referred to under IV.d and IV.e shall be plus Office Expenses, Disbursements and value added tax.
g. Nysingh shall always be entitled to demand an advance payment from the Client. An advance payment received shall be offset against the final invoice for the Agreement in question.
h. Nysingh shall be entitled to adjust the Fee on a time-spent basis in the interim and as per 1 January of each year in accordance with the hourly rates that it sets annually. If the hourly rates are increased within three months of the conclusion of the Agreement, the Consumer shall have the right to terminate the Agreement. The Consumer must exercise this right within one month after receipt of the first invoice following the increase in the hourly rates. If the Consumer terminates the Agreement, the Fee owed shall be calculated on the basis of the hourly rates prior to the increase.
i. In matters which are dealt with on the basis of the statutory legal aid system, the provisions of this section shall only apply to those costs to be borne by the Client on the grounds of the legal aid decision.
j. Should the Agreement exist between Nysingh and several Clients, all the Clients shall be jointly and severally bound by the contractual obligations under the Agreement, including this and all subsequent provisions.

VI. Payment

a. The Client shall only be released from its payment obligation towards Nysingh after and in so far as it has transferred the sum owed to one of the bank accounts in the name of Nysingh or, if requested by Nysingh, the Client's Account, or has paid one of the lawyers, civil-law notaries or junior civil-law notaries in cash (up to the maximum generally accepted/set in the legal and/or notarial profession at the time of payment and against issuance of a receipt).
b. The Client shall not be entitled to offset sums payable to Nysingh against counterclaims.
c. Nysingh's invoices must be paid within 14 days of the invoice date. If this period is exceeded, the Client shall be legally in default and shall be obliged to pay Nysingh default interest equivalent to the statutory interest rate.
d. Should Nysingh take action for the recovery of debts against a defaulting Client, all judicial and extrajudicial costs incurred by Nysingh in connection with the recovery will be borne by the Client at a minimum of 10% of the outstanding invoices.
e. The payment by or on behalf of the Client shall be applied first to the costs due, then to the interest due, and finally to the most senior invoice outstanding, even if the purpose of the payment is otherwise stated by or on behalf of the Client.

VII. Third-party Funds for the legal profession and Clients' Account for the notarial profession

a. Nysingh does not have a Foundation for Third-Party Funds. The lawyers affiliated with Nysingh therefore do not receive any third-party funds within the meaning of the Regulation on the Legal Profession and are therefore exempt from the obligation to maintain a Foundation for Third-Party Funds.
b. The civil law notaries affiliated with Nysingh may hold funds belonging to their Clients and/or third parties in the context of handling a case. These funds will be held in the clients' account (referred to in Section 25 of the Notaries Act) in the name of Nysingh notarissen.
c. All costs incurred by Nysingh in connection with deposits made by or on behalf of the Client or third parties into the notarial clients' account, including administration costs, management costs, any negative interest and judicial and extrajudicial costs arising from disputes between the Client and a third party about the entitlement to any portion of the balance in the notarial clients' account, shall be borne by the Client.

VIII. Liability

a. The firm's liability to Clients and third parties for any loss or damage that arises from or relates to the performance of the Agreement is at all times limited to the amount which can be claimed under the professional liability insurance in the relevant case, plus the amount of excess under the relevant policy.
b. The professional liability insurance for the legal practice provides cover of EUR 75,000,000 for each claim. For the United States and/or Canada an annual limit of EUR 150,000,000 applies. Worldwide cover applies. Our primary insurer is HDI Global S.E., the Netherlands (Westblaak 14, 3012 KL Rotterdam).
   Professional liability insurance for the notarial practice provides cover of EUR 1,000,000 for each claim, up to a maximum of twice per insurance year (primary cover); EUR 24,000,000 in excess of EUR 1,000,000 through the Royal Dutch Notarial Association (excess layer); and EUR 50,000,000 in excess of EUR 25,000,000 as office cover (excess layer). Worldwide cover applies. The primary insurer is Amlin Insurance S.E. (Van Heuven Goedhartlaan 939, 1181 LD Amstelveen).
c. If and to the extent that, for whatever reason, no payment is made under the aforementioned insurance or the insurance provides no cover, any liability of the Firm is limited to an amount of EUR 100,000 or, if the Fee charged by Nysingh in the matter concerned is higher, to that amount, up to a maximum of EUR 200,000.
d. Articles 7:404 DCC and 7:407 of the Dutch Civil Code do not apply to the Agreement and therefore cannot be used as a basis of liability of the Office.
e. If the Firm engages third parties, or uses equipment, software, databases, registers or other resources, it will at all times exercise the necessary due care. However, the Firm is not liable for any default by such third parties or for the improper functioning of the devices, software, data files, registers or other items used by the firm in performing the Agreement.
f. If a reliance by the Firm on the provision under VIII.e is not upheld in court, the limitation of liability as described under VIII.c shall in any event apply.
g. The limitation of liability in these general terms and conditions also applies with regard to any non-subordinates that perform the Agreement. This provision must be considered a third-party clause within the meaning of Articles 6:253 - 256 of the Dutch Civil Code.
h. Clients are only entitled to hold Nysingh liable up to the amount referred to under VIII.b. Any claim for damages against employees, lawyers, civil-law notaries and the practice companies of Nysingh's shareholders (or their directors) is excluded. This provision must be considered a third-party clause within the meaning of Articles 6:253 - 256 of the Dutch Civil Code.
i. The limitation of liability does not apply to deliberate intent or deliberate recklessness on the part of Nysingh and/or its directors.

IX. Use of AI

a. Nysingh has access to (company-specific) AI and will integrate the use of this AI in a number of processes. The lawyers and civil-law notaries can make use of this AI in the provision of their services where this is in the interest of the client and adds value to the performance of their work. This can be in the context of processing, searching, analysing, summarising and translating information, but also in comparing documents or clarifying texts. AI can also be used in examining legislation and case law.
b. The lawyers and/or civil-law notaries affiliated with Nysingh observe the core values of their profession in this regard and perform their work in accordance with the Nysingh AI policy.
c. The client agrees to this AI use, in so far as it happens under the terms and conditions as set out above.

X. Disputes

a. The Agreement shall be governed by the law of the Netherlands.
b. Nysingh has an internal complaints procedure for handling complaints about the conduct of its lawyers, civil-law notaries or junior civil-law notaries, which applies to the Agreement. Nysingh's complaints officer is responsible for implementing the internal complaints procedure.
c. Subject to the provisions under X.d., all disputes resulting from the conclusion and execution of the Agreement shall in first instance be adjudicated by the District Court of Gelderland (location Arnhem). However, Nysingh shall always be entitled to submit a dispute to the competent court according to the law or the applicable international treaty.
d. The notarial services provided are subject to the Complaints and Dispute Settlement Scheme for the Notarial Profession, if and insofar as it concerns disputes that fall under the scope of that scheme (see www.knb.nl en and www.degeschillencommissie.nl).
e. All claims against the Firm lapse if not brought before the competent court within one year of the Client becoming aware of them.

XI. Amendments

In Nysingh is authorized to make amendments to these general terms and conditions. The new general terms and conditions shall enter into force on the date to be announced at that time. Nysingh shall inform the Client about any amendments to these general terms and conditions and – if requested – send them to the Client.

XII. Translations

In the event of discrepancies between the Dutch text of these general terms and conditions and translations thereof, the Dutch text shall prevail.

These general terms and conditions were filed with the Dutch Chamber of Commerce 14th October under number 08118371.