

Our General Terms and Conditions

1. General

These General Terms and Conditions apply to the services provided by and/or for lawyers from the CVBA EVEREST ADVOCATEN G&B (CBE 0843.239.014, Legal Persons Register Ghent, VAT BE 0843.239.014). You can find more information on www.everest-law.be.

2. Fees, invoicing, and expenditure

Fees and invoicing: All services are charged to the client by the CVBA EVEREST ADVOCATEN G&B to whom the Lawyer has transferred its debt. Unless agreed otherwise and with reservation of the right to index whilst the file is being handled, the services are usually charged on the basis of standard hourly fees. Other methods of charging fees are possible (see appointment document). However, a final statement is always possible in accordance with the results achieved. At least 10 minutes is registered for each performance. The invoices are sent by e-mail unless otherwise explicitly agreed. The client agrees in each case to give an e-mail address to which the invoices can be sent.

Advance payments: The Lawyer can ask the client for one or more advance payments by means of the CVBA EVEREST ADVOCATEN G&B before the commencement of the assignment and whilst the file is being handled. An advance payment is the flat-rate amount which the client pays to the Lawyer prior to a detailed account of costs and fees. In the final account of costs and fees the advance payments are deducted from the total amount.

Payment: All our invoices are payable cash at our registered office. In any case, the Solicitor reserves the right to terminate or suspend the provision of services with reasonable prior notice, for reasons of non-payment of requested deposits or of statements of fees and costs after a period of 30 days or more or for any other serious reason.

Non-payment by the business client: If the invoice remains unpaid, interests on late payments are owed, without formal notice – at a rate of 12% per annum. Under the same conditions, compensation is owed at a rate of 10% on the outstanding amount.

Non-payment by the consumer-client: If the client is a consumer (i.e. any customer acting solely in a private capacity) the interests on late payments will be set in accordance with the maximum provided for in article XIX.4, section 1, 1° of the Economic Law Code (hereinafter: 'CDE'), i.e. the reference interest rate plus 8 percentage points. The compensation owed is calculated in accordance with the maximum amounts provided for in art. XIX.4, section 1, 2° CDE as follows: a) EUR 20.00 compensation if the outstanding amount is smaller than or equal to EUR 150.00; b) EUR 30.00 compensation plus 10% of the outstanding amount in a bracket between EUR 150.01 and EUR 500.00 if the outstanding amount is between EUR 150.01 and EUR 500.00; c) EUR 65.00 compensation plus 5% of the outstanding amount in a bracket above EUR 500.00 up to maximum EUR 2,000.00 if the outstanding amount is higher than EUR 500.00. These interests on late payments and compensations can only be claimed after the sending of a first reminder free of charge and upon expiry of a period of 14 calendar days starting on the third business day after posting of this reminder to the consumer-client. If the reminder is sent electronically, the period of 14 calendar days starts on the calendar day following the day the reminder is sent to the client. Upon expiry of a period of 14 calendar days starting on the third business day after the posting date of a subsequent formal notice of default, the Solicitor can proceed with collection.

Administrative costs: The Lawyer charges a flat-rate payment of 15% of the fees by means of the CVBA EVEREST ADVOCATEN G&B for ordinary general administrative costs.

Expenditure/Costs: Incurred expenses (such as fees for bailiffs, experts, and external lawyers, relocation costs, travel and catering costs, costs for couriers and special shipment services, research costs, and binding documents, etc.) are stated and invoiced separately, plus any VAT.

Indexation: The Lawyer reserves the right to index fee rates and administrative costs once per calendar year.

VAT: 21% VAT is due on all outgoing invoices unless a different regime specifically applies.

3. Third party accounts:

Money which the Lawyer holds or receives on behalf of the client is deposited in a special bank account held by the lawyer in accordance with the bar regulations, a so called third party account. The client grants the Lawyer permission to deduct fees and expenses which are still due (see above) from the amounts to be received from the client.

4. Liability

Liable party: In the case of professional liability only the Lawyer can be called to account to the exclusion of the CVBA EVEREST ADVOCATEN G&B, which does not provide any services as a lawyer.

Limited liability: The possible contractual or extra-contractual liability of the Solicitor for loss, damage, costs or expenses caused in connection with the provision of the services, except in the event of fraud, will in any case be limited to the amount covered by the liability insurance (NV AMLIN EUROPE) of the Solicitor. This cover for the principal amount, interests, costs and incidentals is limited to an amount of EUR 2,500,000.00, except if the Solicitor is insured for a higher amount, as shown in the general terms and conditions. The client confirms having read the terms and conditions and acknowledges that the covers are reasonable and equitable to the loss the client could be expected to make at the time of entering into the agreement.

No liability for oversights on the part of the client: The Lawyer shall not be liable for any losses, damage, costs, or expenses which might arise in any way from (fraudulent) operations or oversights, omissions, inaccurate or incomplete statements, or unlawful deeds on the part of the client, its directors, employees, agents, or subcontractors. The Lawyer reserves the right to claim any losses of its own from the client.

No liability for oversights on the part of third parties: The Lawyer is not liable for operations or oversights which have taken place before the commencement of the execution of the services. Even if the Lawyer has given advice on the basis of information or counsel which has been handed over by foreign or other lawyers or advisers on whose services the lawyer has called without the client having given an assignment for that purpose, any liability of the lawyer for loss, damage, costs, or expenses which have arisen directly or indirectly from an operation or oversight on the part of third parties is excluded.

Use of documentation: The Lawyer accepts no responsibility whatsoever for damage which has arisen from the use of documents in a different form to that provided by the Lawyer or in situations other than those for which the documents were drawn up.

Force majeure: The Lawyer accepts no responsibility whatsoever for a delay or the non-execution of its duties if the delay or non-execution is the result of circumstances which, in fairness, are outside the Lawyer's control.

5. Documentation

Destruction of documentation: The file which is present in the Lawyer's office (with the exception of documents which the client requests to be returned) is not kept for longer than five years after the final settlement of fees and costs. It is the client's responsibility to request the timely return of his or her file or items from it, if that is necessary.

6. Anti-money-laundering and anti-terrorism funding

1. If the Lawyer assists the client with the preparation or execution of operations related to the purchase or sale of property or companies, the management of the client's funds, securities, or other assets, the opening or management of bank accounts, savings accounts, or securities accounts, the organisation of capital which is necessary for the formation, operation, or management of companies, the formation, operation, or management of companies, trusts, fiduciaries, or similar legal constructions, or if it acts on behalf of or for the account of its client in any financial operations or operations in property, it is obliged to comply strictly with the legislation and bar regulations with regard to anti-money-laundering and anti-terrorism funding. In accordance with the prevailing rules in the matter, the Lawyer is principally bound to an Identification requirement and a requirement of due diligence with regard to its client. This procedure requires the co-operation of the client and obliges clients who work in the form of a company pursuant to Article 74, paragraph 2, second section of the law of 18 September 2017 to notify their lawyer who the ultimate beneficiary is from this company or sequence of companies and to inform the Lawyer of any change in this situation. When the client enters into the commercial relationship with Everest, it acknowledges that it has complied with the mandatory UBO registration on the web site of the government and shall announce any changes immediately in writing (<https://financien.belgium.be/enl/E-services/Ubo-register>) Foreign clients must provide this information within 14 days of the commencement of the contractual relationship. If the client fails to enter or maintain the information in the register or fails to provide the information on time, the Lawyer is entitled to terminate its involvement within the provisions of Article 71 of the Code of Conduct.

2. The client informs the lawyer if he or she or an ultimate beneficiary comes into one of the following categories of persons:

2.1. 'politically exposed person': a physical person who holds or has held a prominent public position, and in particular:

- a) heads of state, government leaders, ministers, and state secretaries;
- b) members of parliament or members of a similar legislative body;
- c) members of governing bodies of political parties;
- d) members of supreme courts, constitutional courts, or other judicial authorities, including administrative judicial authorities which have issued judgements against which there is no pending appeal, apart from in exceptional circumstances;
- e) members of courts of auditors or executive boards of central banks;
- f) ambassadors, consuls, chargés d'affaires, and senior officers of the armed forces;
- g) members of the managerial, supervisory, or governing body of public companies;
- h) directors, deputy directors, and Executive board members or holders of a similar position with an international organisation;

2.2. 'relative':

- a) the spouse or a person who is classed as the equivalent of a spouse;
- b) children and the spouses of those children or persons who are classed as the equivalent of a spouse;
- c) parents;

2.3. 'persons known to be close associates':

- a) physical persons who, together with a politically exposed person, are the ultimate beneficiaries of a company or of whom it is well known that they have other close business relationships with a politically exposed person;
- b) physical persons who are the sole beneficiaries of an entity as understood by 27°, a), b),
- c), or d), of whom it is well known that this entity has essentially been formed for the benefit of a politically exposed person;

2.4. 'international organisation': a financial or representative association set up as part of an international agreement between states, providing for common bodies as the need arises, which possesses legal personality and is governed by a legal system which is separate to that of the members.

3. Furthermore, the anti-money-laundering legislation obliges the Lawyer in certain circumstances to report potential money-laundering operations and funding of terrorism in which the client might be involved to the President of his/her bar.

7. Applicable law and authorised law courts

The parties agree that Belgian law shall apply solely and exclusively to these General Terms and Conditions, to any agreement to which the latter refer, and to the assignment of the Lawyer in general. The law courts of Ghent shall have sole authorisation for any dispute regarding the interpretation or the implementation of these General Terms and Conditions and/or the agreement to which they are related. Moreover, the parties agree explicitly and conventionally that any other law courts than those designated in the previous section shall not be authorised with regard to the subject matter stated in the previous section.

8. Processing of personal data

The Lawyer processes the personal data of the client in accordance with the provisions of EU Regulation 2016/679 of the European Parliament and the Council of 27 April 2016 regarding the protection of physical persons in relation to the processing of personal data and regarding the free movement of that data (hereinafter: GDPR).

The Lawyer collects and processes the client's personal data for client management (including client administration, invoicing, administering recovery files, and sending newsletters) and also to combat money-laundering and the funding of terrorism.

Personal data is processed on the basis of Article 6.1 (a) (seeing that the client gives his or her explicit consent by signing these General Terms and Conditions), Article 6.1 (b) (seeing that the processing will sometimes be necessary for the implementation of the agreement between the Lawyer and the client), Article 6.1 (c) (seeing that the processing will sometimes be necessary in order to comply with a legal duty to which the Lawyer is bound), and Article 6.1 (f) of the GDPR (seeing that the processing will sometimes be necessary in order to act in the legitimate interest of the Lawyer).

In so far as the data processing takes place solely on the basis of Article 6.1 (a) (consent), the client is always entitled to withdraw the granted consent.

The client's personal data will be shared with other companies within the European Economic Area which are connected directly or indirectly with the Lawyer or with any other partner of the Lawyer, if this is necessary in order to achieve the formulated objectives.

The Lawyer guarantees that those recipients shall take the necessary technical and organisational measures to protect the personal data.

The personal data shall be saved for the period which is necessary in order to comply with the legal requirements (including in the areas of accounting and anti-money-laundering legislation) and for at least as long as the statutory limitation period of 10 years runs with respect to the Lawyer.

The client is entitled at any time to examine his or her personal data and can amend it (or have it amended) if it is inaccurate or incomplete. He or she can also, under certain conditions, have his or her personal data removed, limit the processing thereof, and object to the processing of his or her personal data on the basis of Article 6.1 (f) of the GDPR. Moreover, the client is entitled to obtain a copy (in a structured, customary, and mechanically legible form) of his or her personal data which he or she himself or herself has supplied to the Lawyer and to have the personal data sent to another company.

In order to exercise the aforementioned rights, the client is Requested to send an e-mail to the following e-mail address: infogent@everest-law.be.

The client is entitled to object free of charge to any processing of his or her personal data for direct marketing purposes.

The client is entitled to lodge a complaint to the Data Protection Authority (Drukpersstraat 35, 1000 Brussels – contact@apd-gba.be).