

General Terms and Conditions

General terms and conditions of De Kaap B.V.

De Kaap B.V., having its seat of business in Zoelen, the Netherlands and registered at the Chamber of Commerce in Rivierland under number 11.03.20.79.

De Kaap is associated with the Vereniging van Buitensport Ondernemingen Nederland (VeBON). Because of this you are assured of professional outdoor sport. De Kaap is however more than an outdoor sport enterprise and therefore applies also its own General Terms and Conditions. These deviate on some parts more or less from the VeBON-General Terms and Conditions, whereby reference is made to the payment conditions, the General Terms and Conditions with regard to help and assistance by De Kaap during events, the exoneration of liability and the protection of the intellectual property rights of De Kaap.

1. Definitions

1. De Kaap: the private limited liability company under the laws of the Netherlands: De Kaap B.V.;
2. Principal: the counterparty or principal of De Kaap;
3. Event: each activity organised by De Kaap, or that on the terrain of De Kaap takes place;
4. Agreement: each agreement concluded between De Kaap and Principal to the organisation and offering of Events or leasing of goods by De Kaap;
5. Participant: a natural person that takes part or shall take part in an Event or leases goods of De Kaap;
6. Ticket costs: they must be paid by Principal (per Participant) with regard to (the participation in) an Event;
7. General Terms and Conditions: these General Terms and Conditions.

2. General

1. The General Terms and Conditions are applicable to all offers, designated offers, Agreements and services of De Kaap insofar from the General Terms and Conditions has not been deviated by parties explicitly and in writing.
2. All offers and designated offers of De Kaap are non-binding, unless explicitly stated otherwise. Earlier designated offers, price statements and such are deemed to have been recalled after the issue of a new designated offer, price statement and so forth.
3. General Terms and Conditions applied by Principal or to which Principal might refer in any manner are hereby explicitly rejected unless these have been accepted explicitly in writing by De Kaap.
4. In case of contradiction between stipulations from the Agreement and the text of the General Terms and Conditions, the stipulations from the Agreement prevail.
5. Possible deviations from the General Terms and Conditions must be agreed explicitly in writing. From such deviations no rights can be derived with regard to legal relations concluded later.
6. If any stipulation of the Agreement or the General Terms and Conditions is invalid or non-binding, because of incompatibility with mandatory law, then the Agreement and/or the General Terms and Conditions remain in force for the remainder, and shall parties in good consultation replace the invalid and non-binding stipulation by another that is valid and binding, and of which the legal consequences approach those of the invalid and non-binding stipulation, also in view of the nature and tenor of the Agreement, to the extent possible.
7. If and insofar a good execution of the Agreement requires this, has De Kaap the right to let certain activities be executed by third parties.
8. Principal is to grant at all times all reasonable cooperation in order to enable De Kaap to comply with the Agreement in accordance with its obligations.
9. Images and specifications of the Events offered by De Kaap are non-binding and only have the purpose to give a general impression of what De Kaap has to offer.
10. De Kaap reserves the right, to allocate Participants into separate groups.

3. General obligations Principal and Participant(s)

1. The Principal must ensure that the Participant(s) meet with the following terms and conditions: -
 - The Participant(s) is (are) obliged to compliance with all directions of De Kaap, its employees and the third parties employed by is, and such as stated on (safety) boards on the terrain of De Kaap and in the house rules of De Kaap, for the furthering of a good execution of the Event and are required to behave as a good Participant and to have respect for other people and the environment, and is (are) liable for damage caused by his/her (their) improper and non-permitted behaviour, to be assessed to the standard of the behaviour of a careful Participant.
 - The Participant(s) must deal in a careful manner with all materials and objects of use and use these in accordance with their destination.
 - The Participant(s) must not have consumed alcohol prior to the Event.
2. The Participant(s) that cause(s) such hinder or bother or can cause such, for the personnel of De Kaap or third parties, or that have consumed alcohol prior to the Event can be excluded by De Kaap from (continuation of) the Event, without that De Kaap shall be required to refunding of (a part) of the Ticket costs.
3. All costs deriving for De Kaap from the hinder or excess bother from (a) Participant(s) and/or from alcohol consumption by (a) Participant(s), shall, at the discretion of De Kaap, be for the account of the Principal or the Participant(s).
4. If for a certain part of the Event additional terms and conditions are set with regard to the Participants for participation, for instance to have reached the age of 18 years, to have a minimum number of years the possession of a driver's license etc., then it is the responsibility of Principal to ensure that the concerned Participants comply with these terms and conditions. Such additional terms and conditions apply in any case for the driving of a TukTuk (minimum age 23 years and in the possession of a valid driver's license).
5. If directions and/or instructions of personnel of De Kaap, or third parties involved by it, or stated on signs on the terrain of De Kaap or in the house rules applied by De Kaap, are not complied with, then each liability of De Kaap will be forfeit.
6. The Principal and each Participant are obliged to show a valid ID document upon first request of De Kaap.
7. Each Participant is deemed to have concluded before the start of the Event an adequate liability insurance for the benefit of participation in the Event.
8. Principal is towards De Kaap jointly and severally liable for all obligations that derive from the Agreement.
9. Principal is liable for the correct completion by the/a Participant(s) of the forms provided by De Kaap. Furthermore, Principal is liable for all damage that De Kaap suffers as a consequence of use by Participants of attributes made available by De Kaap. Also is Principal jointly and severally liable towards De Kaap for any obligation that the Participant(s) towards De Kaap has/have on the basis of participation by the Participant to the Event.
10. For the use of a TukTuk applies an own risk that amounts to EUR 500. Furthermore the driver needs to have a minimum age of 23 and a valid driver's license. In case of loss/theft of the TukTuk, the driver is obliged to compensate the damage to be suffered by De Kaap, including, but not limited to, the replacement value of the TukTuk.
11. The person that, on behalf of or for the benefit of third parties, concludes the Agreement is, next to these third parties, jointly and severally liable for all obligations deriving from the Agreement. Furthermore, the Participants are liable for their (independent) share in the obligations deriving from the Agreement.

4. Conclusion of the agreement

1. An Agreement is firstly concluded on the moment that De Kaap has received payment for a booking of an Event by Principal via the ticket order form on the website of De Kaap. If Principal has booked in another manner than via the website, then the Agreement is firstly concluded after receipt by De Kaap of a signed confirmation of commission or, if this is sooner, payment of the Event by Principal. This confirmation of commission is deemed to represent the Agreement correctly and completely.
2. De Kaap is not obliged to accept changes in the Agreement. Changes in the Agreement, including extension of already commissioned activities, only bind De Kaap if and as soon as it has confirmed this change in writing. De Kaap is authorised to set further terms and conditions to the change(s). In case a

change leads to a price change, then the price change and the administration costs (in the amount of € 35) shall be brought into account to Principal by means of an additional invoice.

3. If the Agreement is concluded between De Kaap and two or more Principals, then these Principals are each jointly and severally liable for the compliance with the obligations deriving from the Agreement.
4. The Principal can state preferences for the content of the Event. Insofar possible, De Kaap shall try to take this into account.

5. Authorities De Kaap

1. If for a certain (part of an) Event the minimum number of participants is 10 persons and the actual group of Participants at the time of the Event consists of less than 10 persons, then De Kaap is authorised to combine the group with another group of participants, unless the Principal has paid for 10 Participants.
2. If before or during the Event it shows that certain parts of the Event are not in use, or it is, because of the crowd not possible to incorporate the concerned part in the program, then this gives the Principal no right to any refunding of the (a part of the) Ticket price.

6. Price and payment

1. The Ticket price as well as a compensation of the costs for the accident insurance must take place in full in advance. If the Event takes place before the expiry of the payment term, then the payment shall be executed immediately but take place no later than before the Event.
2. If Principal has concluded an Agreement for a certain number of Participants and during the Event it shows that there are more Participants, then it is at the discretion of De Kaap to admit these persons to the Event or not. If De Kaap admits (a part of) the persons, then Principal is or the concerned persons are for this liable to pay the costs for participation in the Event increased with a percentage of 35%. A possible discount that Principal has received at the conclusion of the Agreement, does not apply for these extra person(s).
3. Costs made by Principal, respectively Participant(s) during the Event, shall in principle be paid direct unless De Kaap agrees with invoicing afterwards.
4. Notwithstanding the stipulations in article 6.1, applies for all invoices of De Kaap a payment term of fourteen days.
5. If the not timely payment regards payment of the Event, then it is at the discretion of De Kaap to send either a payment reminder or to assume that the Event has been cancelled by Principal. If a payment reminder is sent and hereto also not timely is complied with, then the Event is deemed to have been cancelled. De Kaap has the right to bring the cancellation costs due for that into account to Principal. In case of cancellation, the stipulations of article 8 shall be applicable.
6. If Principal does not timely comply with his payment obligations, then he is in default by that single fact, without that thereto any summation or notification of default is required, in which case all claims on Principal are directly payable upon demand and Principal is liable to pay an interest of 1% over each month, under which is also understood a part of a month, to De Kaap.
7. All in-court and out-of-court costs that De Kaap makes as a consequence of the non-compliance by Principal of with his (payment) obligations, are for the account of Principal. If Principal remains negligent to pay the due amount increased with the due interest, then De Kaap shall hand over the claim for collection. Principal or Participant is in that case required to pay at least 15%, with a minimum of €100 of the due amounts increased with the trade interest by law with regard to made collection costs.
8. If De Kaap has not received the full Ticket price timely before taking place of the Event, then it is authorised to refuse the Participants. The Principal has no right to refunding of the already paid part of the Ticket price.

7. Medical essentials

1. The Principal is obliged to pass on possible related problems/special issues of one (or more) Participant(s) that can be of influence on his/her participation generously in time before the taking place of the Event, in writing to De Kaap. De Kaap shall make a real effort to accommodate this, unless this in reasonableness cannot be required of it.
2. De Kaap is authorised to bring the costs made by it in connection with medical problems of one (or more) Participant(s) into account to Principal.
3. If the Principal has not (timely) passed on the medical problems of one (or more) Participants in writing to De Kaap, then De Kaap has the right to refuse the concerned Participant(s). In that case the Principal has no right to refunding of the Ticket costs.
4. The Participant is and remains responsible for the assessment whether he/she is to a sufficient degree healthy and/or condition-wise suitable to take part in (a concerned part of) the Event.

8. Cancellation of the Event

1. Principal is advised to conclude a cancellation insurance.
2. Principal can cancel the Agreement per registered mail, whereby the date of receipt by De Kaap applies as cancellation date. In case of cancellation, the Principal is liable to pay (a part) of the Ticket costs, under the following terms and conditions: - Cancellation more than 2 months before the start of the Event: 15% of the Ticket costs;
- Cancellation 2 to 1 month(s) before the start of the Event: 35 % of the Ticket costs;
- Cancellation 1 month to 14 days before the start of the Event: 60% of the Ticket costs;
- Cancellation 14 to 7 days before the start of the Event: 85% of the Ticket costs;
- Cancellation 7 days or less before the start of the Event or if the Participants do not show up: 100% of the Ticket costs.
3. The stipulations in the previous section are also applicable, if an Event is composed of various parts, whereby the stipulations of this article are applicable per cancelled part.
4. Discounts possibly granted by De Kaap do not apply in case of cancellation of a (part of the) Event, in other words, the cancellation costs will be calculated over the full amount exclusive of discount(s).
5. Until 24 hours after the event Principal is allowed to alter the status of purchased tickets to "unused" up to a maximum of 20% of the total amount of tickets purchased. The number of tickets changed this way may not exceed a total of 20 tickets. Unused tickets remain valid up to two years and are admissible for any of our labels.
6. Principal is authorised to move the Event one time only. The costs that Principal is due for this to De Kaap amount to half of the costs as stated in section 2 of this article. Should subsequently after all cancellation of the Event take place, then Principal is - independent of the term before the Event and in addition to the stipulations in this article - liable to pay 75% cancellation costs. Moving of an Event is only possible once.
7. De Kaap is at all times authorised to terminate the Agreement for its reasons without being required to any compensation of damages or obligation to refund.

9. Force Majeure

1. If De Kaap by Force Majeure is hindered (in part) or it is made seriously hard for it to comply with its obligations, then it is never required to compensate any damage deriving there from to Principal. Equal to Force Majeure will be regarded being encumbered to a serious degree.
2. There is an instance of Force Majeure at the side of De Kaap in case of, but not limited to; war, danger of war, (threatening of) terrorism, civil war, riots, revolution, molest, fire, water damage, flooding, government measures, work strike, enterprise occupation, exclusion of labourers, irreplaceable employees, weather circumstances.
3. Equal to Force Majeure will be regarded all other causes that have emerged outside the fault or sphere of risk of De Kaap.

10. Obligation to complain

1. If the Event does not go in accordance with the expectations of Principal, then Principal is, respectively the Participant(s) are obliged to give notification thereof immediately on the location to De Kaap.
2. If the complaint cannot be resolved on location to satisfaction, then Principal can make this known, no later than within 14 days after the end of the Event, in writing and with motivation to De Kaap.

11. Help and assistance

1. De Kaap shall according to the circumstances provide Principal, respectively Participant(s) during an Event, insofar possible, with help and assistance.
2. The costs deriving there from are for the account of De Kaap, solely if the shortcoming in the execution of the Agreement forming the basis for the help and assistance, can be imputed to De Kaap in accordance with article 12.
3. If the cause with regard to the help and assistance is imputable to Principal respectively the concerned Participant(s), then De Kaap is only obliged to the provision of help and assistance insofar that reasonably can be required of it. The costs are in that case for Principal respectively the concerned Participant(s).

12. Liability

1. De Kaap is never liable for any damage suffered by Principal or the Participant(s), except for the stipulations hereafter.
2. De Kaap is only liable for the damage emerged during or on the occasion of an imputable shortcoming in the execution of the Agreement. Except for in case of wilful intent or gross fault of De Kaap or its direct managers, the liability of De Kaap for damage on the side of Participant and/or Principal is limited to no more than three times the Ticket costs of the concerned Participant (in case of damage on the side of Participant) and no more than one time the total Ticket costs for the Event paid by Principal (in case of damage on the side of Principal). If several Participants to the Event have suffered damage, then the liability of De Kaap towards those Participants jointly is in any case limited to the maximum of the total Ticket costs that Principal has paid with regard to the Event. De Kaap is never liable for consequential damage, including among others wage costs and costs of sickness, indirect damage, incurred loss, missed profits, missed income or other enterprise of the Principal, irrespective of the manner in which this has emerged.
3. De Kaap accepts no liability for damage for which on the side of Principal and/or a Participant a claim to compensation exists on the basis of an insurance possibly concluded or to be concluded by Principal or the concerned Participant(s).
4. Principal safeguards De Kaap from claims of (a) Participant(s), that in connection with the execution of the Agreement has or have suffered damage except for insofar there is an instance of wilful intent or conscious recklessness of De Kaap or its direct managers.
5. The exclusions and/or limitations of the liability of De Kaap included in this article, apply also for the benefit of employees of De Kaap, third parties involved by De Kaap and service providers involved by it, as well as their personnel.
6. De Kaap is never liable for theft of properties of (a) Participant(s).
7. The previous stipulations leave any liability on the basis of mandatory law, unaffected.

13. Rights of intellectual property

1. The photos, films or other materials or (electronic) files possible made in the framework of an Event or the Agreement by or on behalf of De Kaap, are the property of De Kaap, irrespective of whether these have been made available to Principal or to third parties, unless agreed otherwise. De Kaap is authorised to use, publish and or multiply these photos, images or other materials or (electronic) files in each manner desired by it.
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2. Principal safeguards De Kaap from claims of Participants or third parties with regard to rights of intellectual property with regard to the photos, films or other materials or (electronic) files that are made or used in the execution of the Agreement by or on behalf of De Kaap.
3. It is not permitted for Principal and Participants, except for prior written permission of the board of management of De Kaap, to make image material (photos, films etc.) in the framework of the Event or the Agreement. Principal and/or Participants must obtain separate permission in writing for the publishing and/or multiplication of this image material. De Kaap is at all times permitted to connect terms and conditions to these permission(s).
4. It is never permitted for Principal and Participants to make use of the intellectual property rights, including, but not limited to, copyrights, logos, word and/or image marks, that belong to De Kaap.

14. Applicable law/Dispute resolution

1. The Laws of the Netherlands are applicable to all legal relations between De Kaap and Principal, also if the provision of services takes place outside the Netherlands.
2. All disputes in connection with the Agreement shall be submitted to the competent court in Arnhem, the Netherlands, unless on the basis of mandatory law another court is competent.

15. Filing

The General Terms and Conditions have been filed at the offices of the Chamber of Commerce for Rivierenland, having its seat in Tiel, the Netherlands, under number 11.03.20.79.