

## **TERMS AND CONDITIONS OF AMOY GROUP**

AMOY GROUP is registered in the trade register of the Dutch Chamber of Commerce (Kamer van Koophandel) under file number: 69601763. VAT number: NL002327644B76.

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### **Article 1    Applicability**

- 1.1**    These terms and conditions apply to all offers of AMOY GROUP and all agreements and other legal relationships between AMOY GROUP and the client. These terms and conditions also apply to subsequent and additional assignments or instructions and new agreements with the client.
- 1.2**    These terms and conditions are easily accessible on the website of AMOY GROUP ([www.amoygroup.com](http://www.amoygroup.com)) and can also be sent at the request of the client without delay and at no charge.
- 1.3**    Terms and conditions used by the client are explicitly rejected by AMOY GROUP and do not apply to the agreement, except if AMOY GROUP explicitly accepts these in writing.
- 1.4**    AMOY GROUP has the right to change the contents of these terms and conditions. Changed terms and conditions also apply to existing agreements. AMOY GROUP will publish changed terms and conditions on her website before these come into force. The changed terms and conditions will come into force two weeks after the date on which these were published, or so much later as the publication sets out.

### **Article 2    Formation of the agreement**

- 2.1**    Offers by AMOY GROUP that are addressed to specific persons are considered to be offers and are without obligation. The agreement with the client is formed by oral or written acceptance of the offer by the client. Oral acceptances will be confirmed in writing by AMOY GROUP.
- 2.2**    Offers by AMOY GROUP that are not addressed to specific persons are considered to be invitations to the client to make an offer. The request or enquiry by the client is in that case considered to be the offer. The agreement with the client is formed by written acceptance of the offer or actual performance of the agreement to which the offer related by AMOY GROUP.

- 2.3** Options given by AMOY GROUP are without obligation. AMOY GROUP at all times remains at liberty to provide options to third parties and enter into agreements with third parties.
- 2.4** Articles 6:227b en 6:227c of the Dutch Civil Code (BW) do not apply to the agreement with the client.

### **Article 3 Cancellation of assignments or instructions**

- 3.1** The client has the right to cancel assignments or instructions at no cost until 48 hours before the start of a calltime/booking. However, the client is at all times liable for external expenses that are already made and for the making of external expenses that can no longer be cancelled. The planning and administration of AMOY GROUP determines the date and time of start of work. Preparation work by AMOY GROUP of over 2 hours will be paid by the client, in spite of timely cancellation.
- 3.2** The total value of the agreement will be paid by the client in case of cancellation within 24 hours before the start of a calltime/booking. The planning and administration of AMOY GROUP determines the date and time of start of work.

### **Article 4 Rates and expenses**

- 4.1** Services are provided at the rates applicable at the time of the formation of the agreement. All rates are excluding VAT and including agency-fee and external expenses, unless otherwise indicated. Travel time and travel costs are charged separately in accordance with the below arrangements. Pre-production meetings and preparation work can be charged separately.
- 4.2** Rates are based on working days consisting of 8 hours. The rate for half a day is based on a working day consisting of 4 hours plus surcharge. Days for filming consist of 10 hours or 5 hours for half a day. Services are offered per day or half a day and not per hour, except for pre-production meetings, preparation work and overtime.
- 4.3** Overtime will be charged at 20% of the day rate per hour, effective from the first hour after a full or half day has passed.
- 4.4** Travel time is charged at a rate of 50% of the hourly rate with a maximum of 8 hours per day. Travel time in case of air travel is charged for a fixed price of 50% of the day rate, irrespective of the duration of the journey.

- 4.5** Travel expenses outside of Amsterdam is charged in accordance with the legally binding rates of the Dutch Government: 0,23 euro cent per kilometer for editorials and 0,32 euro cent per kilometer for commercial bookings. In case of travel by public transport outside of Amsterdam, the actual expenses are charged based on second-class travel. Costs of air travel is charged based on actual costs in economy class. Taxi and parking expenses are for the account of the client, within reasonable limits, as are expenses for stay in other countries and expenses for meals/ beverages during booked projects/productions.
- 4.6** In the event that a budget is agreed upon and it becomes apparent that this budget will be exceeded during the performance of the agreement, AMOY GROUP will notify the client thereof in due time. The amount of the cost overrun will be charged to the client, unless it replies to AMOY GROUP immediately that it does not agree to the cost overrun. In that case AMOY GROUP may suspend the performance of the agreement or have it suspended until the parties have come to an agreement on the matter.
- 4.7** In case external expenses increase during the performance or duration of the agreement as a result of circumstances beyond the control of AMOY GROUP, the additional expenses will be charged to the client. External costs include, without limitation; materials used in the performance of the agreement and rates of third parties involved in the performance of the agreement.

## **Article 5 Payment**

- 5.1** Invoices will be paid ultimately within 30 days after the invoice date. Payments must be transferred to the bank account mentioned on the invoice. The client will send the correct and full billing information to AMOY GROUP at the latest when the agreement is formed. (address, attn. VAT number and also any PO-number or other reference that is necessary to process payment)
- 5.2** Claims of AMOY GROUP are due and payable as of the moment the agreement is formed. As such, sending an invoice or using a PO-number or other reference of the client is not a requirement for claims to become due and payable. In case the client wishes a reference on an invoice to be changed in order to process payment, the client shall inform AMOY GROUP thereof and send the requested reference in via email within 5 days after the invoice date.
- 5.3** AMOY GROUP has the right to send invoices for agreed rates in advance and during the performance of an agreement in case external expenses are made. Payment of agency fees and external expenses incurred by AMOY GROUP cannot be reclaimed in case the assignment or instruction at any time is cancelled or discontinued.

- 5.4** In case payment terms are exceeded, the client is considered to be in default de jure without any notice of default being required. AMOY GROUP has the right to charge default interest in case payment terms are exceeded of 1% on the outstanding amount per month or part thereof, except when the statutory commercial interest rate is higher, in which case this is payable. The client shall pay all judicial and extrajudicial expenses (including legal fees) that are incurred by AMOY GROUP pertaining to the collection of invoices, with a minimum of 15% of the outstanding amount including interest.
- 5.5** The client does not have the right to suspend payment obligations. The client does not have the right to set off any payment obligation to AMOY GROUP against any claim it has on AMOY GROUP, of whichever nature these are.
- 5.6** AMOY GROUP may suspend performance of its obligations, including with regard to the provision of services, in case the client fails to meet its (payment) obligations, of whichever nature these are. AMOY GROUP may also suspend performance of its obligations in case the client fails to send the information referred to in article 5.1 to AMOY GROUP. AMOY GROUP is not liable for any damages that arise out of or in connection with the suspension of the performance of obligations.

## **Article 6 Performance of the agreement**

- 6.1** In the performance of the agreement AMOY GROUP shall exercise the care of a good contractor. The obligations of AMOY GROUP are best effort obligations. The client has the right to give directions in the performance of the agreement. AMOY GROUP and any person it involves in the performance of the agreement, however, retain the artistic freedom to determine in which way the agreement is performed. In no way shall the agreement between AMOY GROUP or the persons it involves and the client consist of a relationship of authority.
- 6.2** AMOY GROUP and the persons it involves shall exercise good care in using objects that are made available to them by or on behalf of the client for the purpose of the performance of the agreement, such as clothing and jewellery. The risk of damage, loss or theft remains with the client. The client shall keep sufficient insurance. The client guarantees that such objects, and text and images made available to AMOY GROUP and the persons it involves by or on behalf of the client, do not breach any third-party rights and client shall indemnify AMOY GROUP against any third-party claims in that regard.
- 6.3** AMOY GROUP may involve third parties in the performance of the agreement. Articles 7:404 and 7:407 lid 2 of the Dutch Civil Code (BW) are not applicable.
- 6.4** In case the client wishes a specific person or third party to be involved in the performance of the agreement, AMOY GROUP will make a reasonable effort to involve this person or third party. If this is not possible, for whichever reason, AMOY GROUP will recommend an alternative person or third party with similar expertise and skills. Except where the client has notified AMOY GROUP in advance and in writing that the specific person or third party it wishes to be involved is a condition to the formation of the agreement, involving another person or third party does not give the client the right to dissolve or terminate the agreement.

- 6.5** The client is obliged to inform AMOY GROUP in advance of the names of the persons it will hire to work with AMOY GROUP and/or the third parties involved by AMOY GROUP. In case the client uses unannounced persons, or replaces persons who were announced, third parties involved by AMOY GROUP may no longer want to work on the assignment or instruction, considering the artistic freedom they require. In that case AMOY GROUP has the right to dissolve the agreement without any liability.
- 6.6** AMOY GROUP will exercise reasonable effort to perform the agreement or have the agreement performed within the agreed schedule. Adjustments in the schedule does not give the right to dissolve or terminate the agreement, nor to suspend payment obligations.
- 6.7** The client and any person involved shall abide by the Terms & Conditions of AMOY GROUP rules and code of conduct, as amended from time to time, during the performance of the agreement. According to these rules, it is prohibited to take photographs or to film during the performance of activities, except with permission of AMOY GROUP. It is also prohibited to share photographs or film on social media or otherwise, without the prior written permission of AMOY GROUP.

## **Article 7 Intellectual property rights**

- 7.1** All intellectual property rights, among which, without limitation, copyrights, neighbouring rights, database rights, design rights, trade mark rights, trade name rights and patent rights, and other rights on all that is used in the performance of the agreement or that is created during the performance of the agreement, including connected know how, are vested in AMOY GROUP and its licensors.
- 7.2** Unless otherwise agreed in writing beforehand, the client is granted a licence on what is delivered by AMOY GROUP in relation to the agreement. The intellectual property rights will not be transferred and remain vested in AMOY GROUP and its licensors. The licence provides the client the right to reproduce and make public the work that is delivered, which is in time, place, medium and use limited to what the parties agree to at the time of formation of the agreement.
- 7.3** It is prohibited for the client to grant sublicences to third parties without prior written permission by AMOY GROUP. Permission can be subject to conditions. The licence of the client is granted under the condition precedent of complete performance of the (payment) obligations of the client to AMOY GROUP, of whichever nature. In case of payment in instalments, the use by the client before the last instalment is paid is at the client's own risk.
- 7.4** It is the client's sole responsibility to arrange permissions and rights from portrayed persons and other third-party right holders that are required for the intended use of what is delivered by AMOY GROUP, unless the portrayed persons and third-party right holders are directly involved by AMOY GROUP or it is agreed otherwise in writing. The client indemnifies AMOY GROUP and the persons involved by AMOY GROUP against any third-party claims by these portrayed persons and third-party right holders.

- 7.5** It is the client's sole responsibility to comply with applicable law and regulations in using the work delivered by AMOY GROUP, among which on the subject of advertising law. The client indemnifies AMOY GROUP against any third-party claims in that regard.
- 7.6** The client will publish the name of AMOY GROUP and the persons it involves with every publication of the work delivered. The client will follow the directions by AMOY GROUP in that respect. It is prohibited to modify the work without prior written permission by AMOY GROUP. Permission can be subject to conditions. Modifications are considered to be, without limitation, the cutting, manipulating and adapting of images. Moral rights as referred to in article 25 of the Dutch Copyright Act (Auteurswet) apply without limitation. The foregoing also applies in case AMOY GROUP agrees to an unlimited licence with the client or transfers intellectual property rights.
- 7.7** The client incurs an immediately due and payable penalty to an amount of three times the rates and costs payable by the client under the agreement for every breach of the contents of this article on intellectual property rights, which includes use of delivered work that was not agreed, notwithstanding the right of AMOY GROUP to claim the surrender of profits and full damages. AMOY GROUP has the right to terminate the client's licence in case it acts in violation of this article on intellectual property rights. AMOY GROUP is not liable for damages of the client or of third parties that are connected to this termination. The client indemnifies AMOY GROUP against any third-party claims in this regard.
- 7.8** AMOY GROUP has the right, at its own costs, to have the books and records of the client that relate to the use of the work delivered by AMOY GROUP audited by a chartered accountant appointed by AMOY GROUP at the client's offices.

## **Article 8 Confidentiality and privacy**

- 8.1** AMOY GROUP and the client will keep strictly confidential any information that they learn of which they understand or can reasonably be expected to understand its confidential character, among which details on the parties' organisation, except in the performance of the agreement as far as is strictly required, or if forced by a legal requirement or court order. The client will impose this obligation on the persons it involves in the performance of the agreement.
- 8.2** AMOY GROUP processes personal data exclusively in accordance with the Personal Data Protection Act (Wet bescherming persoonsgegevens) and other applicable laws and regulations.

## **Article 9 Force majeure**

- 9.1** In addition to what is provided in article 6:75 Dutch Civil Code (BW), a failure to perform under the agreement cannot be attributed to AMOY GROUP if it results from circumstances for which it cannot be blamed, such as war, danger of war, mobilization, riots, strikes or exclusions, fire, floods, illness/viruses and/ or accidents of the persons involved by AMOY GROUP, computer failures, interruption of operations and decreased production, shortage of raw materials or packaging material, transport delays, legal intervention, import limitations or other limiting measures by the authorities, as well as any other circumstance that prevents the performance of the agreement that is not exclusively dependent on the will of AMOY GROUP, such as delays and failures in the delivery of goods and provision of services by persons involved by AMOY GROUP.
- 9.2** In such an event the obligations of AMOY GROUP are suspended. Not until after a period of six months do the parties have the right to dissolve the agreement in whole or in part. Suspension and dissolution do not lead to any liability for AMOY GROUP, irrespective of any advantage as a result thereof for AMOY GROUP.

## **Article 10 Liability**

- 10.1** AMOY GROUP is not liable for consequential damages of the client, including, without limitation, loss of profit, damage to its image and claims by third parties. AMOY GROUP is not liable for damage, loss or theft of objects that are made available by or on behalf of the client to AMOY GROUP and the people AMOY GROUP involves for the purpose of the performance of the agreement, such as clothing garments and jewellery, nor is it liable for damage to other property of the client or persons working for the client or with the client.
- 10.2** The liability of AMOY GROUP for other types of damages is limited to the amount that is paid in the specific circumstances under its insurance policy. The claim on AMOY GROUP for payment of damages is due only after AMOY GROUP has received payment of the insurance company in the relevant matter.

## **Article 11 Dissolution of the agreement**

- 11.1** AMOY GROUP may dissolve an agreement with the client in whole or in part in writing without notice of default and without being liable for any damages or payment, in case suspension of payments is granted to the client, the bankruptcy of the client is requested, the client who is a natural person is granted statutory debt adjustment under the Debt Management Act (WSNP) or the client in other ways loses the power to dispose of its capital.
- 11.2** In the event of dissolution, all claims of AMOY GROUP on the client are due with immediate effect.

## **Article 12 Applicable law and competent court**

- 12.1** The legal relationship between AMOY GROUP and the client is exclusively governed by and construed in accordance with the laws of The Netherlands. The Vienna Sales Convention does not apply.
- 12.2** All disputes arising in connection with legal relationship between AMOY GROUP and the client shall in first instance exclusively be referred to the Court of Amsterdam, The Netherlands, notwithstanding the right of AMOY GROUP to refer disputes to the court of the domicile of the client.

## **Article 13 Additional provisions**

- 13.1** For the construction of these terms and conditions, an electronic notice is considered to be a written notice.
- 13.2** These terms and conditions have been written in Dutch and in English. The version in Dutch prevails in case of a conflict.
- 13.3** In case it proves that a provision in these terms and conditions in whole or in part lacks binding effect, the other provisions remain in force. The provision without binding effect in that event will be deemed to have been replaced by a provision that does have binding effect and deviates as little as possible from the content and purpose of the non-binding provision.
- 13.4** These terms and conditions also apply in favour of legal entities and persons who are involved by AMOY GROUP in the performance of the agreement.
- 13.5** Rights of the client arising out of the agreement with AMOY GROUP cannot be transferred without prior written permission by AMOY GROUP. This provision has effect under property law as referred to in article 3:83 paragraph 2 of the Dutch Civil Code (BW).

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