

## **Article 1 – Definitions**

1. Studio Sella Molenaar: the sole proprietorship of Sella Marly Molenaar, having its registered office in Amsterdam, The Netherlands and trading under the names of Sella Molenaar and/or Studio Sella Molenaar, and also serving as the creative's representative;
2. Creative: the maker, photographer, illustrator or motion-design artist who is represented by Studio Sella Molenaar;
3. Client: the natural person or legal entity that commissions Studio Sella Molenaar and/or the creative to perform engagements or with which Studio Sella Molenaar has concluded an agreement;
4. End product: all tangible and intangible objects, including – but not limited to – provisional and/or final designs, sketches, digital and original drawings, models, work drawings, detailed drawings, photographic products, formats, texts, slogans, catchphrases, campaigns, advertising campaigns, film productions, musical pieces, products created using computer aided manipulation and/or editing, voices, sounds and effects, and the carriers on which such objects are recorded, such as slides, photo negatives, Polaroid photographs, CDs or digital files, whether or not supplied to the client by Studio Sella Molenaar as interim, partial or end results of the activities performed under the engagement;
5. Reference materials: all objects, persons, information and data that the client provides to Studio Sella Molenaar and/or the creative for purposes of carrying out the engagement;

## **Article 2 – Applicability of these terms & conditions**

1. These terms & conditions govern all agreements between Studio Sella Molenaar and/or the creative and the client, unless Studio Sella Molenaar explicitly waives their applicability in writing.
2. Studio Sella Molenaar explicitly rejects the applicability of any terms and conditions of the client.

## **Article 3 – Quotes and agreements**

1. All quotes are strictly non-binding. Agreements are not deemed to have been concluded until the Client has received a written order confirmation from Studio Sella Molenaar (E-mails being considered to constitute written order confirmations) or if the agreement has been signed by both parties.

#### **Article 4 – Engagements**

1. If no order confirmation has been sent, the agreement is deemed to have been concluded if and as soon as Studio Sella Molenaar/ the creative commences work on the engagement, insofar that work is commenced as a result of arrangements or communications on behalf of the client on which Studio Sella Molenaar reasonably may rely.
2. Any amendments to the agreement must be agreed upon in writing. The costs attached to such amendments, and any extra time required, will be for the client's expense. E-mails are considered to constitute written confirmations.
3. Studio Sella Molenaar is entitled to outsource the engagement or any elements thereof to third parties not in Studio Sella Molenaar employ, or commission such third parties to perform the engagement or any elements thereof, the choice of third party being at Studio Sella Molenaar discretion. Studio Sella Molenaar is entitled to have the engagement performed in accordance with Studio Sella Molenaar own creative understanding and views, unless explicitly agreed otherwise.
4. The client is responsible for timely delivery of all data or reference materials reasonably required for the performance of the engagement. The client must also provide all other cooperation that is, reasonably, required in connection with the performance of the engagement. If Studio Sella Molenaar is forced to suspend work on the engagement because this obligation on the client's part has not been fulfilled, the costs caused by that suspension, and any damages resulting, will be for the client's expense.
5. If no representative of the client is present during the actual performance of the engagement, nor available with a reasonable degree of effort, Studio Sella Molenaar is deemed to act as the client's contact or representative – insofar as is necessary –. As a consequence, Studio Sella Molenaar is entitled to make changes to the performance of the engagement and client is obliged to remunerate Studio Sella Molenaar for any costs arising in connection with such changes.

#### **Article 5 – Deadlines, postponement**

1. The deadlines specified in the quote and agreement are targets, unless otherwise agreed.
2. If the client specifies requirements in terms of weather conditions during the production, the consequences of any failure of the required weather conditions to appear will be entirely for the client's expense, if the work or the production has to be postponed as a result of that failure.

## **Article 6 – Dissolution**

1. If the client does not allow Studio Sella Molenaar and/or the creative sufficient opportunity, within reason, to perform the engagement or if the client fails to fulfil its obligations under the agreement, regardless of any instance of force majeure at the client, Studio Sella Molenaar is entitled to dissolve the agreement.
2. Studio Sella Molenaar is also entitled to dissolve the agreement with immediate effect if the client is declared bankrupt or requests temporary or permanent suspension of payments. If the client has not fulfilled all its payment and other obligations in respect of Studio Sella Molenaar at that time, any licences granted will automatically be cancelled, unless explicitly agreed otherwise.
3. If the client terminates or defers the agreement, in whole or in part, the client will be liable to compensate Studio Sella Molenaar for damages.
4. In both the instances defined in the previous item, the compensation for damages will include at the minimum the total value of the engagement, less the costs and commitments that Studio Sella Molenaar has incurred or entered into in respect of third parties and that need not be paid or fulfilled as a result of the termination of the agreement.
5. In the case of a live illustration booking these damages being 50% of the agreed remuneration for terminations not later than 30 days for the agreed start date. In the case of terminations within 7 days of the agreed start date a 100% damage fee applies.
6. Compensation for damages is payable on demand at the moment that the agreement is dissolved, without any written notice of default being required.
7. In the event of dissolution as defined in this article 6, the client is obliged to return to Studio Sella Molenaar all visual materials supplied, including but not limited to the end product.

## **Article 7 – Title and licence**

1. The ownership rights and intellectual property rights attached to the end product, which are understood to include the copyrights and neighbouring rights, belong to Studio Sella Molenaar and/or the creative.
2. The client's use is restricted to the purpose, the territories, the period, the frequency and the media agreed between the parties. If the parties have not specified any arrangements concerning user rights, the user right is deemed to be once-only and restricted to use for a maximum period of one year, in the Netherlands, and utilizing the medium of the initial use.
3. Any other form of use requires prior written approval from Studio Sella Molenaar.
4. Illustrations made on- or during live events are solemnly meant for private use only. Any other (commercial) use is strictly forbidden unless otherwise agreed beforehand. The client bears the responsibility for any violations of this term and can therefore be held liable.
5. The client may not make any changes or edits to the end product without Studio Sella Molenaar written approval, nor allow any third parties the opportunity, whether intentional or unintentional, to use, reuse, download or edit the illustrations/photographs in digital form or otherwise.
6. In addition to the above, the client may not transfer the title to, pledge, lend, lease the end product supplied by Studio Sella Molenaar and/or the creative, or provide it in any other fashion, to any third party, nor encumber the end product with third-party claims or rights,

unless Studio Sella Molenaar has granted its explicit approval for such and unless the client has fully filled all its obligations in respect of Studio Sella Molenaar and/or the creative.

7. If the approval as meant in the previous items has not been granted, the client is obliged to indemnify Studio Sella Molenaar and/or the creative in full for damages. In addition, the client must pay Studio Sella Molenaar and/or the creative the following mark-ups, at the minimum, expressed as percentages of the fees paid or payable to the relevant creative and any other persons or employees in connection with the engagement, in the following situations:
  1. use in Europe, but outside the Netherlands: 100%
  2. use outside Europe: 100%
  3. use in a different medium: 100% per medium
  4. use for a longer period: 100% per year, with a minimum of one year.

The mark-ups specified above, may be cumulative, and are payable on demand from the moment of each instance of unauthorised use, without any notice of default being required.

8. If the parties have agreed that the title to the end product to be supplied is to be transferred to the client, or that a licence is to be granted to the client, such arrangements will, in all instances unless explicitly agreed otherwise in writing, be subject to the condition precedent that the client has paid all amounts owed to Studio Sella Molenaar and/or the creative under whatever agreement. The right to use the end product supplied to the client will not exist until the moment that the client has paid all amounts owed to Studio Sella Molenaar and/or the creative under whatever agreement.
9. The client indemnifies Studio Sella Molenaar and/or the creative against any third-party claims arising in connection with intellectual property rights relating to the reference materials supplied by the client or any ideas, synopses, treatments, scenarios, scripts, story lines, formats or concepts approved by the client and detailed, edited and/or executed by Studio Sella Molenaar and/or the creative, and against loss of, theft of, destruction of or damage to the reference materials and/or any data provided and/or supplied by the client.
10. If agreed, the client must state the creative's name in each instance of use of the end product. The client must also impose this obligation upon any relevant third parties.
11. Studio Sella Molenaar and/or the creative are at all times entitled to use the end product for their own publicity or promotion.

## **Article 8 – Prices**

1. All prices stated in quotes, order confirmations and agreements are denominated in euros and are stated net of VAT.
2. The prices are based in part on costs as at the moment that they were calculated. Studio Sella Molenaar is entitled to charge any increases in prevailing costs and/or fluctuations in exchange rates for foreign currencies to the client, both before and after the agreement is concluded. If such price changes occur, the client is not entitled to demand that the agreement be dissolved, unless reliance on this clause is unreasonable or unfair. If the agreement is dissolved on such grounds, the client must at the minimum reimburse the costs already incurred by Studio Sella Molenaar (both internal costs, based on Studio Sella Molenaar calculations, and external costs).

## **Article 9 – Risk and liability**

1. Shipment or delivery of the End Product, to whatever party and to whatever location, is for the client's account and risk.
2. If the client default in taking receipt of the end product shipped by Studio Sella Molenaar or if no delivery is taken of the end product for reasons independent of Studio Sella Molenaars will, that circumstance will be for the client's risk. In such situations, Studio Sella Molenaar is entitled to store the end product, or give it in storage, for the client's account and risk and to demand payment as if delivery had been made.
3. Neither Studio Sella Molenaar nor the creative is liable for any damages incurred by the client, except in instances involving intention or gross negligence.
4. Neither Studio Sella Molenaar nor the creative is liable for any damages incurred on the clients or event location by user tracks that relate to the work of the creative e.a. paint or ink stains, paper snippets etc., except in instances involving intention or gross negligence.
5. Neither Studio Sella Molenaar nor the creative is liable for any damages attributable to third parties hired by the client or by Studio Sella Molenaar, or attributable to any materials used or persons hired by such third parties.
6. The client is at all times responsible for the consequences of using the end product. The client hereby indemnifies Studio Sella Molenaar against all claims from third parties in connection with such use.

## **Article 10 – Force majeure**

1. In the event of force majeure on the part of Studio Sella Molenaar, Studio Sella Molenaar is entitled either to suspend the performance of the agreement, to propose a suiting replacer, or to dissolve the agreement in whole or in part. In such an event, the client is not entitled to dissolve the agreement, to demand fulfilment and/or compensation for damages, unless such non-entitlement is unreason- able or unfair. If fulfilment by Studio Sella Molenaar is permanently impossible, the client is obliged to reimburse any costs, within reason, already incurred by Studio Sella Molenaar.
2. Any compensation for damages as meant in item 1. above, shall not exceed the amount already paid to Studio Sella Molenaar by the client.

## **Article 11 – Payment conditions**

1. If the parties have agreed that the end product will not be delivered as a whole but in parts, each partial delivery may be invoiced separately and paid in accordance with the payment conditions laid down in these terms & conditions.
2. If the engagement agreed upon covers a period of more than 30 days, Studio Sella Molenaar is entitled to send an interim invoice after 30 days.
3. Studio Sella Molenaar is entitled to suspend or discontinue its work if the client has not paid the amounts due in full within 30 days after the date of the relevant invoice.
4. Unless agreed otherwise in writing, all invoices sent to the client must be paid within 30 days after the dates on those invoices. The sole lapse of that period will mean that the client is in default, without any further notice of default being required.

5. If the parties have agreed that payment will be made in instalments, late payment will result in the entire amount being payable on demand, without any notice of default being required.
6. Failure to make full payment to Studio Sella Molenaar will in all instances result in any approval previously granted to use the end product supplied being withdrawn.
7. If the parties have agreed on the payment of an advance, that advance must be paid within 8 days and must be in Studio Sella Molenaar's possession on the working day prior to the first day of production/shoot. If that advance is not in Studio Sella Molenaar possession by then, Studio Sella Molenaar and/ or the creative are entitled to suspend work or the production until the advance has been received.
8. In the event of non-payment or late payment, the client is liable to pay trade interest from the date on the relevant invoice. All other costs, such as collection costs, extra- judicial costs and all legal fees will also be for the client's account, in all cases subject to a minimum of 10% of the amount invoiced.
9. In the event of non-payment or late payment on the part of the client, Studio Sella Molenaar and/or the creative will have a right of retention in respect of all objects provided by them to the client, until the client has paid all amounts owed to Studio Sella Molenaar.
10. The client hereby waives all rights to offset or deferral in connection with any payment.
11. Studio Sella Molenaar is at all times entitled to demand payment of an advance by the client. If the client fails to comply with such a demand, Studio Sella Molenaar is entitled to suspend the performance of the agreement or dissolve the agreement in whole or in part, in which instances the client will be obliged to pay the total amount of the engagement.