

# JING LAW FIRM

## Jing Law Firm General Terms and Conditions

Version of August 2019

### 1. Definitions

- 1.1. “**The Firm**” means Jing Law Firm, registered with the Dutch Chamber of Commerce under number 74985655 in the form of a sole proprietorship under Dutch law (*eenmanszaak*). The Firm is owned and operated by Dr Jing Guo, attorney of law (*advocaat*) admitted to the Dutch Bar Association (*Nederlandse Orde van Advocaten*).
- 1.2. “**Client**” means the natural person, legal entity or organisation that engages the Firm pursuant to an agreement for services.
- 1.3. “**Affiliated Person**” means any person working for or having previously worked for the Firm, whether pursuant to an employment agreement or on any other basis as well as any person that may be held liable due to provision of services to the Client.
- 1.4. “**The Conditions**” means this set of general terms and conditions.

### 2. Scope of application

- 2.1. The Conditions apply to all legal relationships between the Firm and any Client, including *inter alia* all supplemental, follow-up and related assignments. Any deviation from the Conditions must be agreed upon between the Firm and the Client in writing. In case of discrepancies between the Conditions on the one hand and specifically agreed arrangements in writing on the other hand, the latter shall prevail.
- 2.2. Affiliated Persons may also rely on the Conditions vis-à-vis the Client. All that is stipulated in the Conditions for the benefit of the Firm also applies to the Affiliated Persons as an irrevocable and gratuitously made third-party clause within the meaning of article 6:253 of the Dutch Civil Code (*onherroepelijk derdenbeding om niet*).

### 3. Contract with the Client and the performance thereof

- 3.1. The Firm shall be the sole contracting party of the Client, even if the Client’s intention is for instructions to be performed by one or more specific persons working at the Firm. Article 7:404, article 7:407 paragraph 2 and article 7:409 of the Dutch Civil Code are not applicable.
- 3.2. Services rendered by the Firm are solely for the benefit of the Client. Third parties may not rely on or derive any rights from such services. A third party includes *inter alia* every group company or entity, shareholder as well as managing or supervisory director of the Client, any person working for the Client and any family member of the Client.
- 3.3. The Client agrees that the Firm may use digital means of communication and electronic data storage services, whether or not offered by third parties. The Client is aware that despite all the reasonable efforts made by the Firm, no absolute guarantee can be provided regarding

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the security of using such digital means of communication and electronic data storage services. The Client shall not hold the Firm liable for damage ensuing from the use of the aforementioned digital means or services.

- 3.4. If an assignment is provided by more than one Client, all Clients bear joint and several liability for the obligations arising from the assignment.

## **4. Fees, other charges and tax**

- 4.1. Unless otherwise agreed, the Firm charges service fees on the basis of time spent (including travel and waiting time), multiplied by the applicable hourly rates (the “**Service Fees**”). The smallest unit of time registration is six minutes.
- 4.2. The Client and the Firm may also agree a fixed fee for a specific assignment, being a fixed amount as consideration for the performance of the whole assignment, irrespective of the actual time spent. Such fixed fee will be payable in full and no refund will be made in case any amount has been paid in advance, if the Client for whatever reason terminates the service agreement unilaterally or no longer wishes to receive further assistance. The same applies if the Firm terminates the service agreement in accordance with the second sentence of clause 8.1 below. Clause 8.2 below will apply if the Firm terminates the service agreement in accordance with the first sentence of clause 8.1 below, it being understood that the Service Fees will then be calculated in accordance with clause 4.1 above with the agreed fixed fee as an absolute cap.
- 4.3. In addition to the Service Fees, the following will also be charged to the Client:
- a. all third-party costs charged to the Firm in connection with the provision of services entrusted by the Client such as registered mail costs, courier costs, court registration fees and translation fees etc.;
  - b. general office costs, being a lump sum amounting to 5% of the Service Fees (covering general office costs such as copy, printing and telephone costs etc.);
  - c. travel and accommodation expenses in connection with the provision of services entrusted by the Client; and
  - d. value added tax (if applicable).
- 4.4. The Firm may at all times request an immediately payable advance payment. Advance payments will be deducted from the final invoice amount in the corresponding matter entrusted by the Client, unless otherwise stipulated in these Conditions. If the Client does not pay an advance payment on time, the Firm may suspend or end its services and will not be liable for any consequences resulting therefrom.
- 4.5. The Firm may amend its hourly rates and travel/accommodation expenses compensation rates from time to time. In case of an increase exceeding 10% or an increase within three

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months after commencement of the contractual relation with the Client, the Firm shall inform the Client in writing within seven days after the increase, in which case the Client will be entitled to terminate (*opzeggen*) the agreement with the Firm by written notice. The Client's right to terminate the agreement lapses after ten days from the moment the Client or the Client's representative(s) receive(s) or should be deemed to have received the notification.

## 5. Invoice and payment

- 5.1. Unless agreed otherwise, the Firm shall send invoices on a monthly basis. The Client shall pay the invoice in full without set-off or suspension within fifteen days after the invoice date (the "**Payment Term**"). In case of no full payment within the Payment Term, the Client shall be automatically in default. As from the moment of default, the Firm may suspend or end the services and will not be liable for any consequences resulting therefrom.
- 5.2. From the moment the Client is in default, the Firm will be entitled to charge EUR 20 delayed payment collection administration fees as well as statutory interest (if the Client is a consumer) or statutory commercial interest (if the Client is a commercial party) over the outstanding amounts with a minimum of EUR 20. The Client shall also reimburse the Firm all costs (whether judicial, extra judicial or arbitration related costs) in relation to the collection of outstanding invoice amounts, with a minimum of 15% of the outstanding invoice amounts. Judicial and arbitration related costs shall be reimbursed by the Client in full instead of being limited to the litigation or arbitration costs awarded by the court or the arbitration institute, if the Client completely or largely loses the lawsuit or the arbitration proceedings.
- 5.3. The Client may notify the Firm in writing of any objections to an invoice within the Payment Term by providing reasonable details to support the objections. Upon expiration of the Payment Term, the right to raise objections to an invoice shall be extinguished, in which case the accuracy and validity of the invoice can no longer be challenged in or out of court.

## 6. Liability

- 6.1. In accordance with the relevant regulations, the Firm has taken out professional indemnity insurance that meets the applicable legal requirements (the "**Insurance**"). If provision of services to the Client gives rise to any liability, only the Firm and not any Affiliated Person can be held liable. The liability of the Firm shall in all events be limited to the amount that is paid out for the relevant claim under the Insurance, plus the amount of the Firm's deductible (*eigen risico*) thereunder.
- 6.2. Without prejudice to article 6:89 of the Dutch Civil Code, the Client's right to claim damages or to seek any other legal remedies will expire one year after the date on which the Client becomes or should have reasonably become aware of the damage and the Firm's liability for such damage, and will in any event lapse after three years from the occurrence of the cause of the damage.

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6.3. The Client indemnifies the Firm and Affiliated Persons for the consequences of claims by third parties in connection with the performance of the Client's assignments, to the extent such claim exceeds - if any - the amount that is paid out under the Insurance plus the amount of the Firm's deductible (*eigen risico*) thereunder. The indemnity also covers related costs and expenses. The term "third party" has the same meaning as mentioned in clause 3.2 above.

## 7. Engaging third parties

7.1. For performing the assignment(s) entrusted by the Client, the Firm may engage third parties such as translators, couriers or experts in certain areas etc. The Client agrees that the Firm may engage such third parties in its own name or, as an authorised representative, in the Client's name.

7.2. The Client agrees to be bound by the conditions (including liability limitation clauses) agreed between the Firm and third parties engaged in accordance with clause 7.1 above. The Firm is not liable for any damage caused by any third party.

## 8. Termination

8.1. Either the Client or the Firm may terminate (*opzeggen*) the service agreement by giving fourteen days' prior written notice. However, if the Client does not pay an invoice within the Payment Term or a prepayment invoice within the term specified therein, the Firm may terminate (*opzeggen*) the service agreement by giving immediate written notice without being liable for any consequences resulting therefrom.

8.2. If the service agreement is terminated, the Client shall pay for the work performed by the Firm up to the end of the agreement and for any subsequent work that the Firm may need to perform in order to transfer the matter to the Client or a third party, all in accordance with clauses 4 and 5 above.

## 9. Governing law, complaints and dispute resolution

9.1. All legal relationships (whether contractual or otherwise) between the Client and the Firm are exclusively governed by Dutch law.

9.2. The Firm's complaints procedure, which is published on the Firm's website, applies to all services performed by the Firm for any Client.

9.3. All disputes arising in connection with the service agreement between the Client and the Firm will in the first instance be exclusively submitted to the District Court of Amsterdam (*Rechtbank Amsterdam*), unless the Dispute Committee for the Legal Profession (*Geschillencommissie Advocatuur*) is competent according to the Firm's complaints procedure. However, if the Client's domicile (*woonplaats*) or centre of activities is outside the Netherlands, the Firm may opt to submit the dispute as mentioned in the previous sentence to the Netherlands Arbitration Institute (NAI) or its successor in accordance with the Arbitration Rules of the NAI or

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the applicable arbitration rules of the NAI's successor. The arbitral tribunal shall be composed of one arbitrator. The place of arbitration shall be Amsterdam. The arbitration language shall be English.

## 10. Miscellaneous

- 10.1. Pursuant to *inter alia* the Anti-Money Laundering and Anti-Terrorist Financing Act, the Firm is obliged by law to verify the identity of its Clients (and under certain circumstances also to verify the identity of the Client's ultimate beneficiary owners) and to report unusual transactions or cross-border tax structures to the relevant authorities without informing the Client. The Client consents to the foregoing and shall never hold the Firm or any Affiliated Person liable for any consequences resulting from compliance with the aforementioned legal requirements.
- 10.2. The Firm processes personal data of its Clients and persons working for its Clients in order to provide the best possible services and to comply with statutory obligations. Further information in this regard can be found in the privacy statement published on the website of the Firm.
- 10.3. Upon completion of a matter entrusted by the Client (irrespective of the reason), the Firm will return the originals of all important documents (such as judgments and notarial deeds etc.) by registered mail to the most recent known address of the Client at the Client's expense. Accordingly, no important original documents will be stored in the archive of the Firm. Conservation of such documents is the Client's responsibility. The firm retains the relevant electronic and - to the extent necessary - hardcopy files on record for seven years upon completion of a matter, or for a longer period if prescribed by law. After expiry of the aforementioned period, the Firm may destroy such files without informing the Client. In order to comply with the legal obligation of verifying possible conflict of interest before accepting new assignments, the Firm will retain certain basic data regarding the Clients and their counterparties such as name and date of birth for twenty years after completion of a matter.
- 10.4. Communication through e-mails shall be deemed to be in writing.
- 10.5. The Firm does not have a trust bank account (*derdengeldenrekening*). Accordingly, the Firm shall not administer any money in trust for the Client or any other party.
- 10.6. The information to be disclosed pursuant to article 6:230a through article 6:230e of the Dutch Civil Code, article 7.4 of the Legal Profession Bye-law (*Verordening op de advocatuur*) and article 35a of the Legal Profession Regulations (*Regeling op de advocatuur*) is published on the website of the Firm.
- 10.7. The Conditions are drafted in English and may be translated by the Firm into other languages for reference purposes. In case of discrepancies between different language versions, the English version prevails.