

# General Terms and Conditions

Drafted on 12 May 2017

General Terms and Conditions of Kith & Kin Amsterdam, established at Amaliastraat 20H, 1052 GP and Fagelstraat 87H, 1052 GA in Amsterdam, the Netherlands, registered with the Chamber of Commerce under number 64713148.

## Definitions

In these General Terms and Conditions, the following terms are used as defined below, unless explicitly stated otherwise.

<i>General Terms and Conditions:</i>	The General Terms and Conditions as stated below.
<i>Kith &amp; Kin Amsterdam:</i>	Kith & Kin Amsterdam, registered with the Chamber of Commerce under number 64713148.
<i>Company:</i>	The Guest acting in the exercise of a trade or profession.
<i>Consumer:</i>	The Guest not acting in the exercise of a trade or profession.
<i>Service:</i>	All work, of whatever form, that Kith & Kin Amsterdam has carried out for, or for the benefit of, the Guest.
<i>Honorarium:</i>	The financial reimbursement that is agreed with the Guest for the performance of the assignment.
<i>Assignment:</i>	The contract of instruction to provide services.
<i>Guest:</i>	The one who has accepted the validity of these General Terms and Conditions and has purchase the product and/or had given instructions for the provision of the Service. The Guest includes both consumers as companies.
<i>Contract:</i>	Any contract entered into between Kith & Kin Amsterdam and the Guest.

## Scope

These General Terms and Conditions apply to every offer and Contract entered into between Kith & Kin Amsterdam and the Guest, unless the parties are departed from the General Terms and Conditions explicitly and in writing.

These General Terms and Conditions are also applicable to contracts with Kith & Kin Amsterdam for the implementation of which third parties must be involved.

The applicability of any of the Guest's purchasing conditions or other general terms and conditions is expressly excluded.

If one or more provisions of these General Terms and Conditions are void or voidable, the other provisions of these General Terms and Conditions remain in effect. In this event, Kith & Kin Amsterdam and the Guest will consult with each other to agree new provisions to replace the void or voided ones.

Departures from the Contract and the General Terms and Conditions are only valid if they are explicitly agreed with Kith & Kin Amsterdam in writing.

## Offers

Offers should preferably be made in writing and/or in electronic form, unless pressing circumstances make this impossible.

Kith & Kin Amsterdam cannot be held to its offer if the Guest, in accordance with the requirements of reasonableness and fairness and generally accepted standards, should have understood that the offer or an element thereof contains a manifest fault or clerical error.

If the acceptance departs from the offer included in the offer, whether or not on points of minor importance, then Kith & Kin Amsterdam is not bound by this. The Contract then does not come into being in accordance with this differing acceptance, unless Kith & Kin Amsterdam indicates otherwise.

A composite offer does not oblige Kith & Kin Amsterdam to perform an element of the Assignment for a corresponding part of the stated price.

Offers do not automatically apply to future orders or reorders.

### **Formation of the contract**

The Contract comes into being through the timely acceptance by the Guest of Kith & Kin Amsterdam's offer.

Kith & Kin Amsterdam makes the accommodation available to the Guest for the agreed period for recreational purposes and not for permanent occupation.

Kith & Kin Amsterdam exclusively makes the accommodation available for the amount of Guest for which the accommodation is reserved.

### **Duration and ending of the contract**

The parties will decide the duration of the Contract by agreement.

The Contract will end by operation of law after the agreed period of the Contract comes to an end, without any notice being required.

### **Reservation**

The Guest can make a reservation through the website, online booking portals, by mail or phone.

The Guest can make a reservation based on the specified availability. On the weekend only reservation from a minimum two nights can be made.

The Guest must fill in his complete and accurate personal details when making a reservation.

Before the Guest makes the reservation, the Guest must pay in advance.

After the Guest made a reservation, the Guest will receive by mail a confirmation of his reservation.

### **Cancellation and no-show**

In the event of cancellation one month or less before the start of the stay the Guest is liable to pay the fee in full.

In case of force majeure the Guest is not obliged to pay the full Honorarium.

In the case of no-show the Guest is obliged to pay the total fee.

### **Early departure**

In case of early departure, the guest is obliged to pay the full fee for the agreed period, unless in the case of force or majeure.

### **Termination contract and stay**

Kith & Kin Amsterdam can terminate the Contract immediately and terminate the stay if the Guest:

- intentionally causes damage in the accommodation;

- has committed use of drugs;
- in the accommodation committed illegal activities;
- probable committed a criminal offense;
- used the accommodation improper;
- despite a prior warning, the house rules, general terms and conditions and the Contract not or not properly are followed and that from Kith & Kin Amsterdam cannot reasonably be expected to that the stay will be continue;
- despites a prior warning, the Guest is guilty of excessive noise disturbance.

### **Damage, theft, or loss**

In the case the Guest causes with intent damage, theft or loss, Kith & Kin Amsterdam will report this toe the police. `

In the case of damage that was not cause by the Guest, the Guest is obliged to notify Kith & Kin Amsterdam immediately.

In the case the Guest causes with intent damage, theft and/or loss, the full costs will be recovered from the Guest.

### **Penalty clause**

In case of violation of the smoking ban, noise disturbance or drug use in the accommodation, the Guest shall pay the Kith & Kin Amsterdam an immediately payable penalty of € 250,- per violation without further notice of default being required.

If the Guest lose the keys of the accommodation, the Guest shall pay the Kith & Kin Amsterdam an immediately payable penalty of € 350,- per violation without further notice of default being required.

If the Guest leaves the accommodation really untidy and sloppy behind, the Guest shall pay the Kith & Kin Amsterdam an immediately payable penalty of € 25,- without further notice of default being required.

### **Amendments to the contract**

If, during the implementation of the Contract, it becomes apparent that it is necessary to amend or supplement the Contract to ensure its proper implementation, then Kith & Kin Amsterdam will inform the Guest of this as soon as possible. The parties will then amend the Contract in a timely manner and in mutual consultation.

If the parties agree that the Contract will be amended or supplemented, this can influence the time of the completion of the implementation. Kith & Kin Amsterdam will inform the Guest of this as soon as possible.

If the amendment or supplementation of the Contract will have financial, quantitative and/or qualitative consequences, then Kith & Kin Amsterdam will inform the Guest of this in advance.

If a fixed Honorarium and/or fee is agreed, then Kith & Kin Amsterdam will indicate the extent to which the amendment or supplementation of the Contract will influence the price. In this event Kith & Kin Amsterdam will attempt, as far as possible, to issue a quotation in advance.

Kith & Kin Amsterdam may not make any additional charges if the amendment or supplementation is a consequence of circumstances that can be attributed to Kith & Kin Amsterdam.

Amendments to the Contract originally entered into between the Guest and Kith & Kin Amsterdam are only valid from the time at which these amendments are accepted in writing by both parties by means of a supplementary or amended Contract.

### **Implementation of the contract**

Kith & Kin Amsterdam will implement the Contract to the best of its knowledge and ability, and in accordance with the requirements of good workmanship.

Kith & Kin Amsterdam is entitled to arrange for certain work to be carried out by third parties. The applicability of article 7:404, 7:407, paragraph 2 and article 7:409 of the Dutch Civil Code is explicitly excluded.

The Guest will issue all information or instructions that are necessary for the implementation of the Contract, or which the Guest can be reasonably expected to understand are necessary for implementation of the Contract, to Kith & Kin Amsterdam in a timely manner.

If the above-mentioned information and instructions are not issued, or not issued in a timely manner, then Kith & Kin Amsterdam is entitled to suspend the implementation of the Contract. The additional expenses that are incurred through the delay will be borne by the Guest.

#### **Honorarium**

The Honorarium and/or the fees are expressed in euros, inclusive of VAT, tourist tax and other government levies, unless indicated otherwise.

Kith & Kin Amsterdam will provide a statement of all associated costs, or provide information on the basis of which these costs can be calculated by the Guest, in a timely manner before the Contract is entered into.

#### **Distance service-provision**

The regulation regarding distance service-provision does not apply since the Contract concerns service regarding accommodation, transport, hotel or catering;

#### **Implementation periods**

The work will be carried out within a period stated by Kith & Kin Amsterdam.

If a period is agreed or stated for the performance of particular work, then this period is only indicative and is not to be regarded as a strict deadline.

If Kith & Kin Amsterdam needs information or instructions from the Guest that are necessary for the implementation of the Contract, then the implementation period will commence after the Guest has provided these to Kith & Kin Amsterdam.

#### **Payment**

Payment will take place by means of transfer to a bank account specified by Kith & Kin Amsterdam, unless agreed otherwise.

Payment can be made both in advance, unless agreed otherwise.

The Guest is obliged to make a pre-payment of 30% of the agreed Honorarium.

Payment afterwards must be made on arrival or directly after the check-out, unless agreed otherwise.

The Guest is not authorised to deduct any amount from the payable amount by reason of a counterclaim made by the Guest.

Objections to the level of the invoice do not have the effect of suspending the payment obligations.

After the expiry of a period of 14 days after the invoice date, the Guest will be, without a notice of default, by operation of law in default. The Guest has to bear from the moment of default on the immediately claimable amount an interest at the rate of 2% per month, unless the statutory interest rate is higher.

In the event of bankruptcy, suspension of payment or placement under conservatorship, the amounts owed to Kith & Kin Amsterdam and the obligations of the Guest towards Kith & Kin Amsterdam are immediately claimable.

#### **Collection costs**

If the Guest is in default or in breach of the Contract in fulfilling its obligations (in a timely manner) then all reasonable costs incurred to obtain an out-of-court settlement are payable by the Guest.

With regard to the extrajudicial (collection) charges, Kith & Kin Amsterdam is entitled, in so far as the Guest act in the capacity as a Company, in departure from article 6:96 paragraph 5 of the Dutch Civil Code and the Payment of Extrajudicial Collection Charges Decree, to a payment of 15% of the total outstanding principal sum, with a minimum of € 90,- for every invoice that is wholly or partly unpaid.

With regard to the extrajudicial (collection) charges, Kith & Kin Amsterdam is entitled, in so far as the Guest act in the capacity as a Consumer, to a payment of the maximum sum that is determine in the Payment of Extrajudicial Collection Charges Decree.

In so far as the Guest act in the capacity as a Consumer, Kith & Kin Amsterdam is only entitled to a reimbursement of extrajudicial collection charges after the Kith & Kin Amsterdam send the guest a reminder to pay within 14 the outstanding invoice or invoices after the guest came into default.

Any reasonable legal costs and execution costs incurred are also payable by the Guest.

### **Suspension**

If the Guest does not fulfil an obligation arising from the Contract, or does not meet it fully or in a timely manner, then Kith & Kin Amsterdam is entitled to suspend the corresponding obligation. In the event of partial or inadequate fulfilment, suspension is only permitted in so far as this is justified by the shortcoming.

Moreover, Kith & Kin Amsterdam is entitled to suspend the fulfilment of the obligations if:

- after the Contract is entered into, Kith & Kin Amsterdam becomes aware of circumstances that give good grounds to fear that the Guest will not fulfil its obligations;
- the Guest is requested, on entering into the Contract, to provide security for the fulfilment of its obligations arising from the Contract, and this security is not provided or is insufficient;
- circumstances arise of such a nature that fulfilment of the Contract is impossible, or that the unamended maintenance of the Contract cannot be reasonably required of Kith & Kin Amsterdam.

Kith & Kin Amsterdam reserves the right to claim compensation.

### **Termination**

If the Guest does not fulfil an obligation arising from the Contract, or does not meet it fully, in a timely manner or properly, then Kith & Kin Amsterdam is entitled to terminate the Contract with immediate effect, unless the shortcoming, in view of its limited significance, does not justify the termination.

Moreover, Kith & Kin Amsterdam is entitled to terminate the Contract with immediate effect if:

- after the Contract is entered into, Kith & Kin Amsterdam becomes aware of circumstances that give good grounds to fear that the Guest will not fulfil its obligations;
- the Guest is requested, on entering into the Contract, to provide security for the fulfilment of its obligations arising from the Contract, and this security is not provided or is insufficient;
- due to a delay on the part of the Guest, Kith & Kin Amsterdam can no longer be required to fulfil the Contract under the originally agreed conditions;
- circumstances arise of such a nature that fulfilment of the Contract is impossible, or that the unamended maintenance of the Contract cannot be reasonably required of Kith & Kin Amsterdam;
- the Guest is declared bankrupt, submits an application for a suspension of payment, requests the application of debt rescheduling for natural persons or is served with a writ of sequestration on all or part of its property;
- the Guest is placed under conservatorship;
- the Guest deceases.

Termination will take place by means of a written declaration, without judicial intervention.

If the Contract is terminated, the Guest's debts to Kith & Kin Amsterdam become immediately due and payable.

If Kith & Kin Amsterdam terminates the Contract on the above-mentioned grounds, Kith & Kin Amsterdam is not liable for any costs or compensation.

If the termination is attributable to the Guest, the Guest is liable for the damage suffered by Kith & Kin Amsterdam.

### **Force majeure**

Breaches may not be attributed to Kith & Kin Amsterdam or the Guest if they are not their fault, or if they are not accountable by law, juristic act, or according to the generally accepted standards. In this case the parties are also not bound to fulfil the obligations arising from the Contract.

In these General Terms and Conditions, the term “force majeure” is defined as – in addition to what is understood in law and jurisprudence in this regard – all external causes, foreseen or unforeseen, upon which Kith & Kin Amsterdam can exercise no influence and through which Kith & Kin Amsterdam is not able to fulfil its obligations.

Circumstances regarded as resulting in force majeure include strikes, lockouts, fire, water damage, natural disasters or other external contingencies, mobilisation, war, traffic congestion, blockades, import or export restrictions or other government measures, stagnation or delay in the supply of raw materials or machinery components and lack of labour forces, as well as any circumstances through which normal business operations are impeded, as a result of which the fulfilment of the Contract by Kith & Kin Amsterdam cannot be reasonably sought by the Guest.

Kith & Kin Amsterdam is also entitled to invoke force majeure if the circumstance that hinders (further) fulfilment of the Contract occurs after Kith & Kin Amsterdam should have fulfilled its obligations.

In case of force majeure the parties are not obliged to proceed with the Contract, and are not bound to pay any compensation.

During the period that the force majeure continues, both Kith & Kin Amsterdam and the Guest can fully or partly suspend the obligations arising from the Contract. If this period lasts for longer than 2 months, both parties are entitled to terminate the Contract with immediate effect, by means of a written notification, without judicial intervention and without the parties being able to claim any damages.

If the situation of force majeure is of a temporary nature, Kith & Kin Amsterdam reserves the right to suspend the agreed service for the duration of the situation of force majeure. In the event of permanent force majeure both parties are entitled to terminate the Contract without judicial intervention.

If at the time of the occurrence of force majeure Kith & Kin Amsterdam has already partly fulfilled, or will fulfil, its obligations arising from the Contract, and independent value accrues to the part fulfilled or to be fulfilled, then Kith & Kin Amsterdam is entitled to separately invoice the part already fulfilled or to be fulfilled. The Guest is bound to pay this invoice as if there were a separate Contract.

### **Liability**

The implementation of the Contract is entirely at the risk and responsibility of the Guest. Kith & Kin Amsterdam is only liable for direct damage that has arisen through wilful recklessness or an intentional act or omission of Kith & Kin Amsterdam.

The liability of Kith & Kin Amsterdam is excluded for indirect damage, including in any event consequential damage, loss of profit, lost savings and loss due to business interruption, or immaterial damage to the Guest.

Kith & Kin Amsterdam is not liable for damage, of whatever nature, resulting from Kith & Kin Amsterdam basing its actions upon inaccurate and/or incomplete information provided by the Guest, unless this inaccuracy or incompleteness ought to have been known to Kith & Kin Amsterdam.

Kith & Kin Amsterdam is not liable for mutilation, destruction, theft or loss of data or documents.

If Kith & Kin Amsterdam is liable for any damage, then the liability of Kith & Kin Amsterdam is limited to an amount three times the amount stated in the invoice, or to the amount to which the insurance taken out by Kith & Kin Amsterdam gives entitlement, with the deduction of the policy excess borne by Kith & Kin Amsterdam under the terms of the insurance.

The Guest must report the damage for which Kith & Kin Amsterdam can be held liable to Kith & Kin Amsterdam as soon as possible, but in any event within 10 days of the damage having arisen, on penalty of the forfeiture of any right to compensation for this damage.

Any liability claim against Kith & Kin Amsterdam lapses within one year of the Guest having become aware, or possibly reasonably having become aware, of the harmful event.

The limitations of the liabilities in this article will not apply if the damage is due to an intentional act or recklessness of Kith & Kin Amsterdam or due to his managing employee.

### **Indemnity**

The Guest indemnifies Kith & Kin Amsterdam against any claims by third parties who suffer damage in connection with the implementation of the Contract which is attributable to the Guest.

If Kith & Kin Amsterdam may be sued for this reason, then the Guest is bound to provide Kith & Kin Amsterdam with both judicial and extrajudicial support. Furthermore, all costs and damage on the part of Kith & Kin Amsterdam and third parties will be at the expense and risk of the Guest.

### **Limitation period**

In departure from the legal limitation period, a limitation period of one year applies to all claims against Kith & Kin Amsterdam and any third parties brought in by Kith & Kin Amsterdam.

### **Confidentiality**

Both Kith & Kin Amsterdam and the Guest are obliged, for the duration of and after the termination of the Contract, to maintain confidentiality regarding all facts and particulars concerning the business which they know or can reasonably suspect are confidential. This duty of confidentiality also includes all details of employees, guests, commissioning bodies and other business contacts which are learned of by reason of the Assignment.

### **Privacy**

Kith & Kin Amsterdam will store the details and information that the Guest provides to Kith & Kin Amsterdam carefully and confidentially.

Kith & Kin Amsterdam may only use the personal details of the Guest within the framework of the implementation of its obligation to supply, or of dealing with a complaint.

Kith & Kin Amsterdam is not permitted to lend out, hire out or sell the personal details of the Guest, or to publicise them in any other manner.

If Kith & Kin Amsterdam is obliged to provide confidential information to third parties by virtue of a legal provision or court decision, and Kith & Kin Amsterdam cannot claim a legal right of immunity, or such a right recognised or permitted by the competent court in this respect, then Kith & Kin Amsterdam is not liable to pay compensation or grant indemnification. The Guest is also not entitled to terminate the Contract by reason of any damage arising in this way.

The Guest agrees that Kith & Kin Amsterdam may approach the Guest for statistical or customer satisfaction research. If the Guest does not wish to be approached for research, the Guest may make this known.

Kith & Kin Amsterdam reserves the right to utilise the other details of the Guest in anonymous form for (statistical) research and databases.

**Amendment of the general terms and conditions**

Kith & Kin Amsterdam is entitled to amend the general terms and conditions unilaterally.

Amendments will also apply to Contract that are already concluded.

Kith & Kin Amsterdam will inform the Guest by e-mail about the amendments.

The amendments to the general terms and conditions will be in force thirty days after the Guest is informed of the amendments.

If the Guest does not agree with the announced amendments, the Guest is entitled to terminate the Contract.

**Translation**

The following terms and conditions are a translation of the term and conditions of Kith & Kin Amsterdam registered under number 64713148.

The Dutch version of the General Terms and Conditions of Kith & Kin Amsterdam is the authentic version. This version of the General Terms and Conditions will take precedence in the event of the explanation or interpretation of the General Terms and Conditions. In the event of a difference in meaning or interpretation between the two versions, then the Dutch version of the General Terms and Conditions will prevail.

**Complaints procedure**

If the Guest has a complaint regarding the accommodation and the stay the Guest can file the complain by e-mail to Kith & Kin Amsterdam.

The Guest has to file a complaint with Kith & Kin Amsterdam within two weeks after the Guest took knowledge of the complaint.

Complaints regarding bookings.com or another partner should be addressed to the concerned partner.

Kith & Kin Amsterdam treat all complaints confidentially.

If the Guest does not fulfil one's payment obligations full or in part, Kith & Kin Amsterdam will not handle the complaints. Only when Kith & Kin Amsterdam has received the payment the complaint will be handled.

Kith & Kin Amsterdam will strive to solve the complaint within 14 working days.

**Applicable law, disputes**

Dutch law is exclusively applicable to all legal relationships to which Kith & Kin Amsterdam is a party. This also applies if an obligation is wholly or partly fulfilled outside of the Netherlands or if the Guest has its place of business outside of the Netherlands.

The applicability of the Vienna Sales Convention (CISG) is excluded.

**Location**

These General Terms and Conditions are filed at the Chamber of Commerce under number 64713148.