

GENERAL CONDITIONS ART PROJECTS

1. GENERAL

- 1.1 These general conditions (**General Conditions**) are applicable to all financial contributions Ammodo makes to institutions in the fields of visual arts and performing arts in order to support Projects.
- 1.2 Ammodo is a Public Benefit Organisation (in Dutch: *Algemeen Nut Beogende Instelling (ANBI)*) whose purpose is to provide (financial) support to and promote the self-actualisation of projects which are in the public interest, and which have a cultural, charitable or social purpose.
- 1.3 A number of provisions in these General Conditions only apply to Projects consisting of more than one Edition (if this is the case, it is explicitly stated in the relevant article).

2. DEFINITIES

- 2.1 In these General Conditions and/or in de Award Letter, the following definitions are used:

Agreement means the Award Letter, these General Conditions, the Project Budget and the Project Plan together, as countersigned by the Beneficiary for acknowledgement and agreement;

Ammodo has the meaning given to it in the Award Letter;

Ammodo Logo means the Ammodo Logo accessible via the Portal;

Auditor means an external independent auditor who is a member of the professional auditors' association in the jurisdiction where the Beneficiary is established;

Award Letter means the letter from Ammodo to the Beneficiary, validly signed by the Parties, in which, in addition to these General Conditions, the specific conditions are set out with regard to the financial support given by Ammodo to the Beneficiary;

Bankruptcy Procedure means any form of insolvency, bankruptcy, suspension of payment, dissolution, scheme of arrangement or other form of loss of free management or free disposal of or forced sale

of assets and shall also include an application for bankruptcy or suspension of payment;

Beneficiary

has the meaning given to it in the Award Letter;

Business Day

means a day on which banks in Amsterdam, the Netherlands and in the capital of the jurisdiction where the Beneficiary is established are open to the public;

Contribution

means the amount of money contributed by Ammodo for the Project as set out in the Award Letter, which amount can be reduced on the basis of the provisions of Article 8.3;

Edition(s)

means the edition(s) as set out in the Award Letter (*only applicable to Projects consisting of more than one edition*);

End Date

means the end date of the Project as included in the Award Letter;

First Instalment

has the meaning given to it in the Award Letter;

Final Evaluation

has the meaning given to it in Article 8.2.1;

Final Financial Statement

has the meaning given to it in Article 8.1.1;

Final Instalment

has the meaning given to it in the Award Letter;

General Conditions

means these general conditions that apply to the financial contributions that Ammodo makes to institutions in the fields of visual arts and performing arts in order to support Projects;

Instalments

means the instalments as included in the Award Letter (including the Final Instalment);

Interim Financial Statement

has the meaning given to it in Article 7.1.4 (*only applicable to Projects consisting of more than one Edition*);

Marketing and Communication Plan

means the marketing and communication plan to be drawn up by the Beneficiary for the purposes of the Project and that shall include the items listed in Article 6.3;

Parties

means the Beneficiary and Ammodo;

- Portal** means Ammodo’s online portal to which the Beneficiary has access for: submitting the application for financial support for the Project, consulting documents that are relevant for the Project, uploading additional documentation required on the basis of the Award Letter and/or these General Conditions, viewing the (monitoring)status of the Project and communication with Ammodo about the Project;
- Project** means the project as described in the Award Letter which will be conducted by the Beneficiary in accordance with the Project Budget and the Project Plan;
- Project Budget** means the overview of the expected returns and costs of the Project drawn up by the Beneficiary as uploaded by it onto the Portal and approved by Ammodo, and the amendments made thereto in accordance with these General Conditions;
- Project Plan** means the plan drawn up by the Beneficiary which sets out how the results and the objectives of the Project are to be realised as uploaded by the Beneficiary onto the Portal and approved by Ammodo, and the amendments made thereto in accordance with these General Conditions; and
- Start Date** means the start date of the Project as included in the Award Letter.

2.2 In the Agreement (unless expressly stated otherwise):

- 2.2.1 words phrased in the singular also relate to the plural form and vice versa;
- 2.2.2 references to “include”, "included", and "including" shall be construed as references to "including but not limited to";
- 2.2.3 the titles to articles serve for identification purposes only and do not affect the interpretation of the Agreement;

2.2.4 in the event of a contradiction between what is stated in the Award Letter and the General Conditions, what is stated in the Award Letter prevails over what is stated in the General Conditions; and

2.2.5 should any contradiction be found between what is stated in the Project Budget and the Project Plan, what is stated in the Project Budget prevails over what is stated in the Project Plan.

3. CONTRIBUTION AND PAYMENT

3.1 Ammodo will make the Contribution available to the Beneficiary for the benefit of the Project and the Beneficiary will accept the Contribution for the Project, all on the terms of the Agreement.

3.2 The Contribution must be spent in its entirety by the Beneficiary on the Project.

3.3 The Contribution will be paid in instalments by Ammodo to the Beneficiary as stated in the Award Letter.

4. INSTALMENTS

4.1 An Instalment (including the Final Instalment) will be paid if the following conditions are met:

4.1.1 The Award Letter has been validly signed by the Parties.

4.1.2 The Beneficiary has submitted a valid signed payment request via the Portal (with a payment period of at least 15 days), whereby:

(a) the payment request for the First Instalment may not be submitted by the Beneficiary until after the Award Letter has been validly signed by the Parties;

(b) the payment request for the First Instalment may be submitted by the Beneficiary in the period of three (3) month prior to the Start Date and ending on the End Date of the Project;

only applicable to Projects consisting of more than one Edition: the payment request for each Instalment (except the Final Instalment) may be submitted by the Beneficiary no earlier than three (3) months before the start date of the relevant Edition (as stated in the Award Letter) and no later than the end date of the relevant Edition (as stated in the Award Letter); and

(c) the payment request for the Final Instalment may not be submitted by the Beneficiary until after the conditions in Article 4.2 have been fulfilled and no later than six (6) months after the End Date.

4.1.3 The previous Instalment has been paid. This condition does not apply in respect of the payment of the First Instalment.

- 4.1.4 The Beneficiary fulfils and has always fulfilled all obligations under the Agreement.
 - 4.1.5 No material adverse change has occurred, in Ammodo's opinion, in the reputation, artistic quality, legal, fiscal or operational position or prospects of the Beneficiary or the Project.
 - 4.1.6 The Beneficiary has demonstrated that the financial position of the Beneficiary and the Project is such that, in Ammodo's opinion, the Project can reasonably be expected to proceed in accordance with the Project Plan and Project Budget.
 - 4.1.7 The specific conditions (if any) as set out in the Award Letter have been met.
- 4.2 The Final Instalment (an amount equal to 10% of the Contribution as stated in the Award Letter) will be paid if, in addition to the conditions stated in Article 4.1, the following conditions are met:
- 4.2.1 The Final Financial Statement has been approved by Ammodo.
 - 4.2.2 The Final Evaluation has been approved by Ammodo.

4.3 **Waiver**

Ammodo has the right to waive (in whole or in part) one or more of the applicable conditions set out in this Article 4 and/or in the Award Letter, by notice to the Beneficiary.

5. **CHANGES TO THE PROJECT BUDGET AND PROJECT PLAN**

- 5.1 The Beneficiary shall implement the Project in accordance with the Project Budget and Project Plan. The Beneficiary shall not make any changes to the Project Budget or Project Plan without Ammodo's prior approval.
- 5.2 If there is any change to the Project Budget and/or the Project Plan, the Beneficiary must submit a change request to Ammodo via the Portal for approval. The Project Plan and/or Project Budget shall be deemed amended (if and to the extent applicable) in accordance with the documents provided to Ammodo via the Portal and approved by Ammodo, from the time of approval by Ammodo.

6. **MARKETING AND COMMUNICATION**

- 6.1 The Beneficiary and Ammodo will enter into timely discussions regarding the manner in which (i) the Beneficiary will mention Ammodo in its communications and (ii) the manner in which the Beneficiary and Ammodo will go public with regard to the Project. In doing so, the Parties will endeavour to draw attention to the Project and the Beneficiary, and to do justice to Ammodo's position as benefactor of the Beneficiary and of the Project.
- 6.2 The principles for the discussions referred to in Article 6.1 are that:

- 6.2.1 Ammodo will be mentioned (e.g. on the Beneficiary's website) or the Ammodo Logo will be displayed on Beneficiary's public communications as a benefactor of the Beneficiary and of the Project; and
 - 6.2.2 the Ammodo Logo will be displayed on Beneficiary's public communications wherever other benefactors or patrons of the Project are also depicted.
- 6.3 Prior to the discussions referred to in Article 6.1 and no later than three (3) months prior to the Start Date, the Beneficiary shall prepare a marketing and communication plan and submit it to Ammodo via the Portal for discussion. The marketing and communication plan will include the following items:
- 6.3.1 an overview of the resources that will be deployed and the efforts the Beneficiary will make to bring the Project to the attention of professionals in the field and the press;
 - 6.3.2 an overview of the public communications in which Ammodo will be mentioned;
 - 6.3.3 a schedule indicating the dates and deadlines of the public communications referred to in Article 6.3.2; and
 - 6.3.4 a detailed explanation of how the principles mentioned in Article 6.2 are to be addressed,
- (the *Marketing and Communication Plan*).**
- 6.4 The Beneficiary shall use its best efforts to implement and comply with the Marketing and Communication Plan and shall inform Ammodo of any changes thereto in a timely manner via the Portal.
- 6.5 The Beneficiary shall always submit all public communications (including (website) designs, press releases and proofs) in which Ammodo is mentioned or the Ammodo Logo is to be used to Ammodo for approval in a timely manner via the Portal. Timely in this case means at least five Business Days before the intended date of publication or disclosure. Ammodo will let the Beneficiary know as soon as possible and in any case within five Business Days of receiving the request for approval whether it approves the relevant communication.
- 6.6 The costs related to public communications as referred to in Article 6.1 to Article 6.5 will be borne by the Beneficiary.
- 6.7 Also in order to raise awareness of the Project and the Beneficiary, the Beneficiary agrees that Ammodo may post the Project on its website and other Ammodo public communications and use visual material from the Project in the broadest sense of the word (including photographs and moving images). If third parties have rights to the visual material, the Beneficiary will, at Ammodo's first request, make every effort to obtain the required permission for use from the rights holders. The Beneficiary also agrees that for

the duration of the Project Ammodo may use the Beneficiary's name and logo in Ammodo's public communications about the Project.

7. INTERIM FINANCIAL AUDITS AND DISCLOSURE

7.1 The Beneficiary will provide Ammodo with the following information via the Portal:

7.1.1 (annually) within six (6) months after the end of the Beneficiary's financial year: the Beneficiary's annual financial statements approved or adopted by the Beneficiary's internal competent body and accompanied by an auditor's report issued by an Accountant.

7.1.2 (annually) once approved internally but before the start of the Beneficiary's new financial year: the Beneficiary's budget for the next financial year.

7.1.3 immediately: any amendments to (i) the Project Budget and (ii) the Project Plan (expressly referring to the provisions of Article 5).

7.1.4 *only applicable to Projects consisting of more than one Edition*: not later than six (6) months after the end date of each Edition, other than the final Edition: an interim financial statement for the Project with respect to that Edition (having the same structure as the Project Budget) (the **Interim Financial Statement**).

7.1.5 *only applicable to Projects consisting of more than one Edition*: not later than six (6) months after the end date of each Edition, other than the final Edition: a written evaluation of the Project in respect of that Edition, containing the elements set out in Article 8.2.1 (d) and (e) (whereby for "Project", read "Edition" and for "Final Financial Statement", read "Interim Financial Statement").

7.2 Ammodo shall have the right to request additional information from Beneficiary regarding (i) the Project or (ii) Beneficiary itself, if in Ammodo's reasonable opinion it is relevant to the Project or the Agreement. Beneficiary shall promptly provide the requested information upon Ammodo's first request.

7.3 Ammodo shall, if in Ammodo's opinion there is just cause, be entitled to have Beneficiary's accounts and all records relating thereto audited by an Accountant to be appointed by it. During such audit, the Accountant will verify whether the Contribution has been spent in accordance with the provisions of the Agreement. The costs of such Accountant will be borne by Ammodo.

7.4 The Beneficiary will keep Ammodo informed as much as possible of everything related to the Project and will inform Ammodo without delay if any facts or circumstances arise that have or may have a negative impact on the Beneficiary and/or the Project.

8. FINAL FINANCIAL STATEMENT, FINAL EVALUATION AND ADJUSTMENTS TO CONTRIBUTION

8.1 Final Financial Statement

8.1.1 After the end of the Project, the Beneficiary will prepare a final financial statement for the Project (the ***Final Financial Statement***).

8.1.2 The Final Financial Statement will have the same structure as the Project Budget. The Beneficiary will send the Final Financial Statement to Ammodo via the Portal as soon as possible and no later than six (6) months after the End Date.

8.1.3 Ammodo will take the decision whether or not to approve the Final Financial Statement as soon as possible after its receipt and will notify the Beneficiary of its decision without delay.

8.2 Final evaluation

8.2.1 As soon as possible and in any case within six (6) months after the End Date, the Beneficiary shall submit a written final evaluation of the Project (the ***Final Evaluation***) to Ammodo via the Portal. The Final Evaluation will include, amongst other things, the Beneficiary's evaluation of:

- (a) what the Project has concretely achieved;
- (b) why it was important for the artist(s) involved in the Project and the Beneficiary to develop this Project;
- (c) in what way the Project aligned with Ammodo's objective of developing art and artists of (potential) international stature;
- (d) to what extent the Project has been implemented in accordance with the Project Plan and, if there were any deviations, what those were down to; and
- (e) to what extent the Final Financial Statement was in line with the Project Budget and again, if there were any significant differences, what the reasons were for those discrepancies.

8.2.2 If requested to do so by Ammodo, the Beneficiary will present the Final Evaluation orally and answer any questions Ammodo may have. If deemed necessary by the Parties, the Final Evaluation will be amended by the Beneficiary as a result of this conversation and the Beneficiary will send the amended Final Evaluation to Ammodo as soon as possible.

8.2.3 Ammodo will decide whether or not to approve the Final Evaluation as soon as possible after receiving it and will notify the Beneficiary of its decision without delay.

8.3 Adjustments to the Contribution

8.3.1 Ammodo is entitled to reduce the Contribution if:

- (a) on the basis of the Final Financial Statement, it is clear that the total costs for the Project were lower or if the total for a particular type of cost was materially lower than budgeted for in the Project Budget.

applicable to Projects consisting of more than one Edition:

- (b) an Interim Financial Statement shows that the total costs for the Edition concerned were lower or if the total for a particular type of cost was materially lower than budgeted for that Edition in the Project Budget, or
- (c) the Final Financial Statement shows that the total costs for (the last Edition of) the Project were lower or if the total for a particular type of cost was materially lower than budgeted for in the Project Budget.

8.3.2 When Ammodo reduces the Contribution in accordance with the provisions of Article 8.3.1 it shall:

- (a) notify the Beneficiary of the decision simultaneously with notification of its decision as referred to in Article 8.1.3; and
- (b) be entitled to reduce the amount of the Last Instalment by the amount of the reduction of the Contribution.

8.3.3 If, even after application of the provisions of Article 8.3.2 Ammodo is found to have paid too much to the Beneficiary under the Agreement, the Beneficiary shall repay the excess amount to Ammodo as soon as possible and not later than within one (1) month after receipt of notification to do so by transferring the excess amount to a bank account number to be specified by Ammodo.

8.4 **Higher revenues**

8.4.1 If the Final Financial Statement shows that the total proceeds from the Project are higher than provided for in the Project Budget, and these additional revenues have not been spent on the Project, the Beneficiary will allocate them to a project similar to the Project. The Beneficiary will inform Ammodo of the use of the additional funds in the Final Evaluation referred to in Article 8.2.

Applicable to Projects consisting of more than Edition:

8.4.2 If the Interim Financial Statement and/or the Final Financial Statement shows that the total proceeds from the relevant Edition are higher than budgeted for in the Project Budget and these additional revenues have not been spent on the Project, the Beneficiary will allocate them to a project similar to the Project. The Beneficiary will inform Ammodo of the use of the additional funds in the written evaluation of the Project referred to in Article 7.1.5 and in the Final Evaluation referred to in Article 8.2 respectively.

8.5 **Claims**

Ammodo's claims under the Agreement will not be subordinate to any third party claims against the Beneficiary that arise out of or in relation to the Project.

9. TAX

9.1 Ammodo does not withhold any taxes in relation to the Contribution since no taxes are payable by Ammodo as a result of such contributions. However, this does not mean that receipt of the Contribution does not have tax implications for Beneficiary (and to avoid any misunderstanding in this respect: the Contribution is a gross payment and will not be increased by Ammodo to compensate for any taxes payable for which the Beneficiary may be liable as a result of having received the Contribution).

9.2 All tax obligations arising from the Agreement and payment by Ammodo of the Contribution will be fulfilled by the Beneficiary. The Beneficiary will seek expert (tax) advice in this regard, if necessary. With this in mind, Ammodo hereby informs the Beneficiary that at the time of signing the Award Letter, Ammodo is a General Beneficial Institution (*ANBI*), which is designated under Article 2(3) and Article 5b of the *Algemene wet inzake rijksbelastingen* (Dutch General Taxation Act). This means that the Beneficiary can claim the exemption under section 33(10^o) of the Inheritance Tax Act 1956.

10. TERM AND TERMINATION OF THE AGREEMENT

10.1 The Agreement is entered into for a fixed period and ends by operation of law as soon as Ammodo has paid the Final Instalment (possibly reduced in accordance with the provisions of Article 8.3) to Beneficiary.

10.2 Notwithstanding the provisions of Article 10.1, the Agreement may be dissolved or terminated (at Ammodo's discretion) with immediate effect without notice of default being required if:

10.2.1 no later than six (6) months after the Start Date, one or more of the conditions (as set out in Article 4.1 and the Award Letter) has not been fulfilled, having not been waived by Ammodo prior to that date, or if prior to the aforementioned date it becomes clear that one or more conditions for the First Instalment cannot be fulfilled;

10.2.2 the Beneficiary, after having received a proper notice of default from Ammodo (whereby a reasonable period for performance has been given (unless performance is no longer possible, in which case no notice of default is required)), continues to fail to comply with (one or more of) its obligations under the Agreement;

10.2.3 the Project is not carried out by the Beneficiary in accordance with the Project Budget and Project Plan;

10.2.4 in Ammodo's opinion, a material adverse change has occurred in the reputation, artistic quality, financial, legal, fiscal or operational position or prospects of the Beneficiary or the Project;

- 10.2.5 the Beneficiary provided false and/or misleading information to Ammodo in respect of itself or the Project; or
 - 10.2.6 the Beneficiary is involved in or subject to a Bankruptcy Procedure, the Beneficiary ceases its operations or a resolution has been passed to dissolve the Beneficiary.
- 10.3 If the Agreement terminates, all rights and obligations of the Parties under the Agreement shall terminate with the exception of this article 10.3, Articles 2 (Definitions), Article 12 (Indemnity), 13 (Confidentiality), 14 (Submission of Documents and Notifications) and 16 (Applicable Law and Jurisdiction), which remain in full force and effect.
- 10.4 If the Agreement has been terminated or dissolved by Ammodo pursuant to the provisions of Article 10.2:
- 10.4.1 the Beneficiary shall indemnify Ammodo for any damage caused by the termination or dissolution of the Agreement by Ammodo.
 - 10.4.2 upon Ammodo's first request, the Beneficiary will pay Ammodo an amount equal to (the portion of) the Contribution already received by the Beneficiary; and
 - 10.4.3 upon Ammodo's first request, the Beneficiary shall within three (3) months after the end of the Agreement, provide Ammodo with a Final Financial Statement and a Final Evaluation in accordance with the provisions of Article 8.1 and respectively 8.2.

11. TRANSFERABILITY

The Parties are not allowed to transfer any rights and obligations, or parts thereof, under the Agreement to third parties without the written consent of the other Party.

12. INDEMNITY

The Beneficiary shall indemnify Ammodo against all third-party claims related to the Project.

13. CONFIDENTIALITY

The Parties shall keep all information relating to the Agreement or matters related to it, including the negotiations leading to the Award Letter, strictly confidential, and shall only disclose it to third parties to the extent necessary for the performance of the Agreement. This confidentiality obligation does not apply (i) if and to the extent that disclosure is required by law/regulations, a court, a regulator or a public body, (ii) in respect of information that has come into the public domain without having been improperly disclosed by either Party or (iii) where disclosure is necessary in order to obtain advice from a professional advisor.

14. SUBMISSION OF DOCUMENTS AND NOTIFICATIONS

- 14.1 The Beneficiary shall submit the documents referred to in Article 4.1.2 (payment requests), Article 6.3 (the Marketing and Communication Plan), Article 6.5 (communications releases, Article 7.1.1 (Beneficiary's financial statements), Article 7.1.2 (Beneficiary's budgets), Article 7.1.3 (change request(s)), Article 7.1.4 (Interim Financial Statement(s), *only applicable to Projects consisting of more than one Edition*), Article 7.1.5 (a written report of the evaluation of the Project in respect of a relevant Edition, *only applicable to Projects consisting of more than one Edition*), Article 8.1.1 (the Final Financial Statement) and Article 8.2.1 (the Final Evaluation) exclusively via the Portal in Dutch or in English.
- 14.2 All other notices, consents, waivers and other communications pursuant to the Agreement shall be in writing in Dutch or English and may only be delivered personally or sent by registered post, courier or e-mail to the (e-mail) addresses as set out in the Award Letter (or to such (e-mail) addresses as a Party may notify the other Party of from time to time).
- 14.3 Ammodo may give notice or consent pursuant to the Agreement via the Portal or in the manner set out in Article 14.2.

15. ENTIRE AGREEMENT AND AMENDMENTS

- 15.1 The Agreement supersedes and terminates all previous oral and written agreements, if any, between the Parties with respect to the Project and neither Party shall have any right or remedy available against the other Party as a result of or in connection with such previous agreements unless otherwise provided for in the Agreement.
- 15.2 These General Conditions may be amended by a resolution of the Ammodo board.
- 15.3 The Ammodo board will decide in respect of all matters not provided for in these General Conditions.

16. APPLICABLE LAW AND JURISDICTION

- 16.1 The Agreement is governed by Dutch law.
- 16.2 The competent court in Amsterdam shall have exclusive jurisdiction to settle disputes relating to the Agreement, without prejudice to the right of appeal and cassation.