

## General Terms and Conditions of Shoq Creative Studio 2015

### Article 1: Definitions

- 1.1 Client – The legal person or natural person that has any written and/or verbal, whether or not additional, agreement with Shoq Creative Studio.
- 1.2 Contractor – Shoq Creative Studio, being the party that offers the services and/or products.

### Article 2. Applicability

- 2.1 These General Terms and Conditions (hereinafter: the “GTC”) are applicable to all offers, agreements, the services deriving therefrom of whichever nature included and all legal obligations between Contractor and Client.
- 2.2 Deviations from these GTC are only valid, if they have been agreed explicitly in writing between Contractor and Client.
- 2.3 The general terms and conditions possibly applied by Client, are not applicable, unless these have been accepted explicitly in writing by the Contractor.
- 2.4 If one or more stipulations in these GTC on any moment are invalid in whole or in part or become invalidated, then the other stipulations in these GTC remain fully applicable.
- 2.5 If Contractor does not always require strict compliance with these GTC, then this does not mean that the stipulations thereof are not applicable, or that Contractor to any degree would lose the right to require in other instances the strict compliance with the stipulations of these GTC.

### Article 3. Designated offer

- 3.1 Contractor composes his designated offers on the basis of an estimate of the necessary working hours for project preparation, recordings, editing, use of material use and other project related matters. Contractor shall determine these hours in all reasonableness.
- 3.2 All designated offers and offers of Contractor are non-binding, unless in the designated offer a term for acceptance has been set. If no term for acceptance has been set, then after expiry of 14 days after sending of the designated offer by the Contractor, no right in any manner whatsoever can be derived from the designated offer or offer.
- 3.3 Contractor cannot be held to his designated offers or offers if the Client reasonably can understand that the designated offers or offers, or a part thereof, contain an obvious error or typo.
- 3.4 In case of executing tasks on location, rental costs will be for the account of the Client, unless agreed otherwise. All composed designated offers are exclusive of VAT and other levies by the government, costs possibly to be made in the framework of the agreement, including travel, board, shipping and administration costs, unless stated otherwise.
- 3.5 A composed price statement does not oblige Contractor to the execution of a part of the commission against a corresponding part of the stated price. Offers or designated offers do not automatically apply for future orders.
- 3.6 If for the execution of certain activities or for the delivery of certain matters a term has been agreed or stated, then this is never a fatal term. In case of exceeding of a term, the Client must therefore declare Contractor in default in writing. Contractor must thereby be offered a reasonable term to give execution after all to the agreement.

#### **Article 4. Extra work**

- 4.1 Despite the observed care, it may happen that a Client, whether or not during the production, has additional wishes, which have not yet been included in the designated offer. These extra hours will be brought into account on the basis of a fixed hourly rate, on top of the amount of the invoice agreed in the designated offer.
- 4.2 If during the execution of the agreement it shows that it is necessary for a proper execution thereof, to change or add to this, then parties shall timely and in mutual consultation proceed to modification of the agreement. If the nature, scope or content of the agreement, whether or not upon request or direction of the Client, of the competent authorities et cetera, will be changed and the agreement is changed because of it from a qualitative and/or quantitative perspective, then this can have consequences for the originally agreed work. Because of it, also the originally agreed amount can be increased. Contractor shall give thereof as much as possible a price statement in advance. By a change of the agreement, the originally stated term of execution can furthermore be changed. The Client accepts the possibility of change of the agreement, including the change in price and term of execution.
- 4.3 Without entering therewith into default, Contractor can refuse a request to change of the agreement, if this from a qualitative and/or quantitative perspective can have consequences for the activities to be executed or goods to be delivered in that framework.

#### **Article 5: Rights of intellectual property**

- 5.1 All copyrights, image rights and other rights of intellectual property on all materials and/or services developed and/or made available on the basis of the agreement by Contractor, such as, among others, but without limitation, issued offers, concepts, ideas, proposals, provided designs, films, images, drawings, (trial) models, folders, banners, advices, house style and software applications, belong solely to Contractor or his licensors, unless explicitly agreed otherwise in writing.
- 5.2 These rights as mentioned in article 5.1 remain property of Contractor irrespective of whether costs have been brought into account to Client for the manufacturing thereof. This data may not be copied, used or shown to third parties without explicit permission of Contractor.
- 5.3 Client acquires with regard to the intellectual property rights that belong to Contractor in accordance with article 5.1 a non-transferable right of use and shall only be allowed to use the delivered products and/or services for the purpose as described and/or discussed during the granting of the commission or in the application for offer or the designated offer/agreement as described by Contractor. If Client wishes to use the products and/or services for additional purposes, then he must enter into contact with Contractor about it. Nationwide, regional and website related use will thereby be seen as different or additional purposes.
- 5.4 Upon violation of the stipulations of this article 5, Client is liable to pay to Contractor a contractual fine of Euro 25,000 per violation. This contractual fine can be claimed next to compensation of damage on the basis of the law.

#### **Article 6: Safeguard**

- 6.1 Client safeguards the Contractor entirely and unconditionally against all claims of third parties to compensation of damage emerged by or during the commission; damage emerged by infringement(s) of copyrights (also for the music used) or portrait rights or any other right whether or not of intellectual property therein included, except for wilful intent and/or gross fault on the side of the Contractor.

#### **Article 7: Music**

- 7.1 For music that is used in a video production sometimes monies must be contributed by the Client to a copyright rights organisation such as The Netherlands' BUMA Stemra. These monies are additional costs, which are not considered in the designated offer, unless otherwise agreed between Client and Contractor. The height of the monies shall be established by for instance BUMA Stemra. The contribution of these monies shall be coordinated by the Client himself with the concerned company or the concerned artist.

Client safeguards Contractor from possible claims in this regard from artists and/or such collection entities.

#### **Article 8: Voice-over**

**8.1** In some productions use is made of one or more voice-overs, or taped voices. The costs of a voice-over fall under the agreed costs.

#### **Article 9: Nature of the legal obligations**

9.1 All legal obligations of the Contractor are legal obligations to make an effort.

9.2 The Client is required to (let) inspect the delivered, immediately on the moment that the goods are made available to him respectively the concerned activities have been executed. Thereby the Client must examine whether quality and/or quantity of the delivered complies with what is agreed and meets the requirements that parties have agreed in that regard. Possible visible defects must be reported within seven days after delivery in writing to Contractor. Possible non-visible defects must be reported immediately, but in any case no later than within seven days, after discovery thereof, in writing to Contractor. The notification must contain a description as detailed as possible of the defect, so that Contractor is able to respond adequately. The Client must enable Contractor to (let) examine a complaint. The material to which the complaint relates, must be available within the same term to the Contractor for verification. If the notification has not been made timely by Client, then his right of reclamation shall be forfeit and this shall have to be regarded as full acceptance of the product and Contractor is no longer required to respond hereto or to pay out any compensation of damage.

9.3 If the complaint is found well-founded by the Contractor, then it shall be established in mutual consultation in which manner the complaint shall be amended while maintaining the existing agreement. The Client remains in that case also required to take-off and payment of the goods otherwise ordered and to what he has granted Contractor commission.

9.4 The submission of a complaint shall never relieve Client from his payment obligations towards Contractor.

9.5 If it is established that a complaint is unfounded, then the costs emerged because of it, including the costs of examination, fallen at the side of Contractor, will come entirely for the account of the Client.

9.6 In deviation of the lawful statutes of limitation, the statute of limitation of all claims and defences towards Contractor and the third parties involved by Contractor in the execution of an agreement, is one year only.

9.7 If the execution after all of the agreed provision of services is not possible or useful anymore, then Contractor shall only be liable within the limits of article 10.

#### **Article 10: Liability**

10.1 If Contractor should be liable, then this liability is limited to what has been set forth in these stipulations.

10.2 Contractor is not liable for damage, of whichever nature also, emerged because Contractor relied on incorrect and/or incomplete data provided by or on behalf of the Client.

10.3 Contractor is only liable for damage that Client suffers and that is the direct, immediate and exclusive consequence of a shortcoming imputable to Contractor and there is an instance of wilful intent or gross fault at the side of the Contractor.

10.4 Not eligible for compensation are, without limitation:

- Enterprise damage including for instance damage by stagnation, missed profits, missed turnover or decreased goodwill in the company or the profession of the Client
- Damage caused by wilful intent or conscious recklessness of help persons

- Consequential damage

10.5 The liability of Contractor on the basis of the agreement with Client is limited to such an amount as is proportional according to standards of reasonableness and fairness to the agreed price. This amount shall never amount to more than the maximum of 50% of the height of the invoice of the concerned delivery.

10.6 The liability of Contractor is in any case always limited to the amount of the pay-out of his insurer in a prevalent case.

#### **Article 11. Relation clause**

11.1 The Client is not permitted without explicit prior written permission of Contractor - during the tenor of a Commission as well as during a period of two (2) years after expiry thereof, to enter into or maintain in any manner, directly or indirectly business relations, included herein an employment relation with the Contractor(s) of; or personnel of; Contractor.

11.2 During the tenor of this Agreement as well as during a period of two (2) years after the end of this Agreement, Client shall not take personnel of Contractor, including personnel of enterprises that belong to the group of enterprises to which Contractor belongs, into his employment or involve them in any manner, directly or indirectly, in the execution of his activities, unless this takes place with explicit prior written permission of Contractor.

11.3 Client is aware that the stipulations in this article are essential for Contractor.

11.4 Upon violation of the stipulations in this article, Client is liable to pay a contractual fine immediately payable upon demand of Euro 30,000 (thirty thousand) per event and also Euro 15,000 (fifteen thousand) per event for each day that the violation continues. The one and the other does not affect the choice of Contractor to claim instead of the aforementioned contractual fine, compensation of damage.

#### **Article 12. Payment conditions**

12.1 All invoices shall be paid by the Client in accordance with the payment conditions stated on the invoice. In the absence of specific conditions, the Client shall pay within fourteen days after the date of the invoice. Each payment serves for the satisfaction of the oldest outstanding invoice or outstanding amount. Upon the start of the commission, we receive in case of a campaign a payment of 50%. During a production we receive a down payment of 40%. A day before the PPM (pre-production meeting) we receive the following 40% and upon final delivery product/service, we receive the remaining 20%. If the commission is terminated before the PPM, then the Client must pay all costs made up to the PPM. If the commission is terminated after the PPM, then we bring 100% of the budgeted costs into account to the Client.

12.2 If the Client comes short in the timely payment of an invoice, then the Client is in default by law without further notification of default. The Client is then liable to pay an interest of 1% per month, unless the interest by law is higher, in which case the interest by law will be due. The interest over the amount payable upon demand shall be calculated from the moment that the Client is in default until the moment of satisfaction of the fully due amount inclusive of possible (out-of-court and in-court) collection costs.

#### **Article 13. Force Majeure**

13.1 Under Force Majeure will be understood, in addition to what is understood in that regard in the law and jurisprudence, all external causes, foreseen or not foreseen, on which Contractor can exercise no influence, but because of which Contractor reasonably is not able to comply with his obligations.

13.2 In case the Contractor by Force Majeure, under which in these GTC is also understood: war, mobilisation, riots, flooding, closed shipping, other hindrances in transport, stagnation in, respectively limitation or cessation of the delivery by public utility companies, shortage of gas, oil products or other means to generate energy, fire, engine rupture and other accidents, strikes, exclusions, actions of trade

unions, export limitations, other measures by the government, non-delivery of necessary materials and half fabricates by third parties, wilful intent or gross fault of help persons, illness of the Contractor or one of his employees or help persons and other similar circumstances, can reasonably not comply with an essential part of his obligations, then Contractor can, during the period that the Force Majeure continues, suspend the obligations from the agreement. If this period lasts longer than two months, then each of the parties is authorised to dissolve the agreement, without obligation to compensation of damage to the other party.

- 13.3 If Contractor at the time of the emergence of the Force Majeure has already partially complied with his obligations, or can only partially comply with his obligations, then he is authorised to invoice the already executed part or part to be executed separately. Client is required to pay these invoices.

#### **Article 14. Retention of title**

- 14.1 The delivered by Contractor in the framework of the agreement, remains property of Contractor until the Client has properly complied with all obligations from the agreement(s) concluded with Contractor.
- 14.2 The delivered by Contractor, which according to section 1 falls under the retention of title, may not be sold onward and may never be used as payment instrument. The Client is not authorised to put a lien on the matters falling under the retention of title, or to encumber these in any other manner.
- 14.3 The Client must always do all that reasonably can be expected of him to secure the property rights of Contractor. If third parties put a line on the matters delivered under retention of title or wish to vest or make rights thereon, then the Client is obliged to notify Contractor thereof immediately.
- 14.4 In case Contractor wishes to exercise his property rights designated in this article, the Client grants in advance unconditional and irrevocable permission to Contractor and a third party to be designated by Contractor, to access all those places where the properties of Contractor are located and to take these back.

#### **Article 15. Use by Contractor self**

Contractor is at all times authorised and entitled and according to his own insight to use the products and/or services delivered by him to the Client by himself, meaning to publish it and/or to multiply it in the framework of promotion, publicity and public relations, and in the framework of addition to his own portfolio. Hereunder will be understood among others, but not solely, the placement of the delivered products and/or services on his own website and that of his freelancers that were part of the commission. Contractor shall notify the Client of such use, but does not have to ask for his permission and neither Contractor is liable to pay the Client a fee for such use.

#### **Article 16. Applicable law and disputes**

- 16.1 Solely the Laws of the Netherlands are applicable to all legal relations whereby Contractor is a party, also if to a legal obligation execution is given in whole or in part abroad or if the party involved in the legal relation has residence there. The applicability of the Vienna Purchase Treaty is excluded.
- 16.2 The courts in the town of the legal seat of Contractor is exclusively competent to take knowledge of disputes, unless the law prescribes otherwise mandatorily. Nevertheless, Contractor has the right to submit the dispute to the courts competent according to the law.
- 16.3 Parties shall only turn to the courts, after they have made an ultimate effort to resolve a dispute in mutual consultation.