

# GENERAL TERMS AND CONDITIONS OF MUVIPRO

## 1. Applicability

1.1. These general terms and conditions are applicable to any possible agreement and the conclusion thereof between Muvipro, its group companies and/or any affiliated company that states that these terms and conditions are applicable on the one hand (Muvipro or such company here in after referred to as “Muvipro”), and a client or a potential client on the other hand. Such client hereinafter referred to as “the Client”. An agreement may include, but shall not be limited to, the production of audiovisual content by Muvipro. Such agreement shall include these general terms and conditions. Such agreement hereinafter referred to as “the Agreement”.

1.2. Deviations from these general terms and conditions can only be explicitly made in writing and will only be applicable to the Agreement for which these deviations are stipulated.

1.3. If and insofar as any provision from an agreement (exclusive of these terms and conditions) is incompatible with a provision from these general terms and conditions, the provision from such agreement shall prevail.

1.4. Should a clause forming part of the Agreement, including but not limited to a clause in these general terms and conditions, be or become null and void, the other provisions of the Agreement shall remain in force, and the clause concerns shall be replaced where possible by a clause that approximates the essence of the original clause as much as possible.

1.5. Unless explicitly agreed otherwise in writing, any general terms and conditions of the Client are not applicable. If and insofar as any applicable general terms and conditions of the client are incompatible with these general terms and conditions, these general terms and conditions shall prevail.

1.6. Unless the Agreement stipulated otherwise, Client is not entitled to transfer its rights under the Agreement to a third party.

## **2. Offers and quotes**

2.1. Unless stated otherwise in writing, any offer of Muvipro is non-binding.

2.2. Unless stated otherwise in writing, all offers made by Muvipro shall lapse after one week of its date.

2.3. A quote that combines multiple elements shall not oblige Muvipro to perform a part of the service detailed therein for a corresponding fraction of the quoted price.

## **3. Performance of the Agreement**

3.1. Muvipro will be entirely independent in the performance of the Agreement. It will carry out its obligations at its own discretion. However, the Client may provide reasonable directions and instructions with regard to the result of the assignment.

3.2. Commitments for Muvipro will be a commercially reasonable efforts obligation and shall never constitute an obligation to achieve a specific result or use Muvipro's best efforts, unless such a result is explicitly agreed on by Muvipro.

3.3. Muvipro is entitled to use third parties to perform its obligations.

3.4. In the event Muvipro supplies services wholly or partly consisting of third party products or services (especially software or hosting or other generic services), the general terms and conditions of the third party apply besides these general terms and conditions. If and insofar any provision of the third party's general terms and condition is incompatible with a provision from these general terms and conditions, the provision which is, in Muvipro's sole discretion, most favorable for Muvipro shall prevail.

3.5. Delivered goods and services in which subjective elements play a role in the assessment thereof, may, without prejudice to what is stated elsewhere in these general terms and conditions regarding liability, only cause a failure in the performance (a so called "tekortkoming in de nakoming" ) by Muvipro if the Client proves that Muvipro has not used its commercially reasonable efforts.

3.6. Client is obliged to do everything that is reasonably necessary or desirable to enable Muvipro to carry out its obligations in a timely manner, in particular by providing full, sound and clear information, necessary instructions, permissions and approvals or materials.

3.7. The Client guarantees and warrants that all instructions given to Muvipro are given by an authorized person. Muvipro shall never be obliged to check if the person

acting as a representative of the Client that gives Muvipro an instruction or information is entitled to do so.

## **4. Delivery**

4.1. Muvipro will deliver on the agreed date, unless there is any additional work necessary due to the Client. Delivery dates are not “fatal”. By not making a specific date Muvipro will not be in default.

4.2. The Client shall be deemed to have accepted anything delivered by Muvipro if the Client uses the delivered goods or services or if the Client does not challenge the quality of the delivered goods or services within five days of receipt.

4.3. If agreed the Client may view a first rough cut of the production. The Client shall be entitled to comment on such rough cut and Muvipro shall if reasonably possible try to realize the Client’s wishes. This may imply additional work. Muvipro shall inform the Client if and to which extent Muvipro estimates this to be the case.

## **5. Price and payment**

5.1. Unless stated otherwise, all prices and rates are exclusive of VAT and withholding tax and any other tax or levy imposed by the authorities.

5.2. If an increase of Muvipro’s out-of-pocket costs occurs after the conclusion of the Agreement, Muvipro may increase the fee payable by the Client. If, as a result of this, such increase exceeds 15% of the fee, Muvipro is entitled to terminate the Agreement without being liable for any losses or damages.

5.3. Unless stated otherwise in the Agreement, the Client shall pay Muvipro as follows:

The client must pay within the agreed payment term. If the client does not meet the payment within the agreed term, the client receives a reminder of the payment to pay the invoice within 30 days from the moment the invoice is sent.

After the expiry of the final payment term of 30 days, omission will occur. The client owes interest over the entire period of omission. This interest is 10% of the amount due to be delivered.

5.4. Notwithstanding any other right or defense Muvipro may have, Muvipro is always entitled to suspend delivery in case of late payment. Muvipro may, in the event Muvipro is able to do so, also block any of its works delivered to the Client (also if such works were delivered under earlier agreements).

## **6. Budget and additional work**

6.1. Muvipro shall use its reasonable commercial efforts not to exceed a budget agreed on.

6.2. The Client may request Muvipro to carry out additional work. Muvipro is never held to agree with a request for additional work.

6.3. If, after Muvipro has made the Client an offer or after an Agreement has been concluded, Muvipro concludes that, due to a lack of information provided or based on additional wishes by the Client, Muvipro needs to deliver additional services or goods and Muvipro is willing to provide those additional work or goods, the costs of such additional work or goods shall be fully for the Client. Muvipro shall inform the Client of additional work as soon as reasonably possible.

6.4. The Client will reimburse additional work in accordance with the agreed fee in respect thereof or, if such fee is not agreed, in accordance with the usual rates of Muvipro. The Client will always pay Muvipro's additional costs.

## **7. Cancellation**

7.1. In case Client cancels an Agreement, for whatever reason, Muvipro will charge the following costs:

a) In the event of an audiovisual production:

(i) all out-of-pocket costs incurred by Muvipro and 30% of the fee if the Client cancels up to twenty-one days prior to the first shooting day of the production;

(ii) all out of-pocket costs incurred by Muvipro and 50% of the fee if the Client cancels in between twenty-one days and seven days prior to the first shooting day of the production;

(ii) all out of-pocket costs incurred by Muvipro and 75% of the fee if the Client cancels within seven days of the first shooting day of the production;

b) In all other events, the price plus all out-of-pocket costs as far as not included therein.

7.2. In case Muvipro cancels an audiovisual production and if such cancellation is not provoked by an act or omission of the Client, Muvipro will solely refund amounts received unless the services Muvipro rendered have resulted in relevant material in which case Muvipro shall be entitled to a reasonable part of the amounts received. Muvipro is not obliged to pay any losses or damages suffered by Client.

## **8. Intellectual property**

8.1. Subject to full payment by the Client of all amounts currently and in the future due hereunder and subject to full compliance of the Client in respect of the other obligations of the Client, Muvipro hereby transfers to the Client all copyrights and neighboring rights Muvipro may have regarding an audiovisual production produced by Muvipro as delivered to the Client with the exception of those elements not especially made for the Client that Muvipro has used, envisage to use or are customarily used in multiple productions. Regarding these latter elements Muvipro hereby grants the Client a non-exclusive, worldwide license to use such elements. Further, to avoid misunderstanding, such transfer is exclusive of rights the authors of the respective works did transfer or license prior to the conclusion of the Agreement to a collective collection society such as BUMA/STEMRA (music), VEVAM (director i.a.), NORMA (actors) etc.

8.2. Muvipro reserves all of its rights regarding the production script, the underlying format of the production, any material not used in the production as delivered and all techniques (including software) used to create the production.

8.3. Unless otherwise agreed, Muvipro shall not clear rights, including copyrights, trademark rights (e.g. in respect of the title of a production), database rights, model rights or portrait rights of third parties, of works or elements which Muvipro includes in the production. Unless otherwise agreed, the Client shall clear any privacy and data protection issues in connection with the production, e.g. by having relevant persons sign a quit claim. Upon request of the Client Muvipro shall provide the Client at cost an overview of the elements that might need clearance. The Client warrants and guarantees that all elements the Client wishes to include, also those elements that the wishes of the Client imply, are or will be cleared by the Client. The Client indemnifies Muvipro fully in respect of any claim by any third party regarding any rights not cleared.

8.4. The cost of the use of any music included in the production shall be for the account of the Client unless otherwise agreed.

8.5. Muvipro and its personnel shall be named on or with the production as is customary. The Client shall not remove any of such names.

8.6. Any changes in the production can only be made by Muvipro or with Muvipro's prior consent.

## **9. Promotion**

9.1. Muvipro is allowed to (use) an audiovisual production delivered for its own promotion and to indicate (by a third party) that it has created it. Muvipro is entitled to use the fact it has provided or will provide services or goods to the Client and an overview of those services and goods for its own promotion.

## **10. Confidential information**

10.1. Each party will keep confidential, and will not disclose to third parties (except as expressly permitted by this clause) any information disclosed by one party to the other party (whether disclosed in writing, orally or otherwise) that at the time of disclosure:

(a) was marked as "confidential"; (b) was described by the disclosing party as "confidential"; or (c) must reasonably be qualified by the recipient party to be confidential; and the terms (but not the existence) of this Agreement (hereinafter: "Confidential Information").

10.2. Each party will protect the confidentiality of the Confidential Information of the other party using appropriate security measures.

10.3. The Confidential Information of a party may be disclosed by the other party to its employees and professional advisers, provided that each recipient is legally bound to protect the confidentiality of the Confidential Information.

10.4. These obligations of confidentiality will not apply to Confidential Information that: a. has been published or is known to the public (other than as a result of a breach of this Agreement);

b. is known to the receiving party, and can be shown by the receiving party to have been known to it, before disclosure by the other party; or

c. is required to be disclosed by law, or by an order (binding upon the relevant party) of a competent governmental authority, regulatory body or stock exchange.

10.5. In no event, neither during nor after the termination of this Agreement shall any party have the right to use the other party's Confidential Information for any purpose other than the purpose of the Agreement.

## **11. Liability and indemnity**

11.1. Muvipro shall in no event be liable for any losses or damages incurred by the Client or any of its affiliates as a result of any shortcoming, default, tort or other unlawful act or omission by Muvipro

11.2. Only if (and only to the extent that) the aforementioned full limitation of liability is null or annulable pursuant to mandatory law, the following paragraphs shall apply.

11.3. Muvipro's liability shall be limited to the direct, as opposed to indirect or consequential, damage incurred by Client up to the amount received and retained by Muvipro from Client less out-of-pocket costs incurred by Muvipro.

11.4. Muvipro shall never be liable for:

- a) any indirect or consequential damages, losses, costs or claims, including but not limited to damage incurred by Client due to an interruption of its business, loss of profits, loss of savings, loss of goodwill, loss resulting from claims from its clients, mutilation, destruction or loss of information for whatever reason;
- b) damage resulting from a situation of force majeure, the improper performance of obligations by suppliers of Muvipro, incorrect or incomplete information provided by Client, the conduct of Client or persons or persons designated by Client or for whom Client is responsible.

11.5. In the event Muvipro may recover the Client's damages and losses wholly or partly with a third party and such recovery might lead to amounts actually received by Muvipro higher than the amounts stated in the preceding paragraphs of this clause, Muvipro shall be entitled, in its sole discretion, to assign its claim on such third party to the Client against full discharge of the claim the Client has or pretends on Muvipro.

11.6. Without prejudice to article 6:89 BW of the Dutch Civil Code, any liability of Muvipro terminates within twelve months after the occurrence of the injurious act or omission.

11.7. The limitations of liability of Muvipro in this clause do not apply if the liability is caused by gross negligence or intent by Muvipro's management team or by a member of that team.

11.8. Client shall indemnify Muvipro, from and against all damages, losses, liabilities, suits, proceedings, actions, fees, costs and all other claims arising in the event of a non-performance or a non-proper performance of any agreed obligation, insurance and/or indemnification by the Client.

11.9. The limitations of liability in this clause and the indemnification of the Client are also made on behalf of Muvipro's management and employees should the Client (or a third party as the case may be) have a separate claim against any of them. The liability towards all of these persons together with Muvipro's own liability constitute the amount to be considered when establishing the maximum liability hereunder. This clause is meant to be a third party clause and the respective persons could invoke this clause against the Client.

## **12. Duration of the Agreement and termination**

12.1. Without prejudice to any other remedy or right out of the law and/or an Agreement, Muvipro shall have the right to terminate the Agreement with immediate effect at any time by notice in writing to Client in any of the following circumstances, without incurring any liabilities whatsoever towards Client, if: - Client fails to comply with one or more of its obligations under the Agreement and these

general terms and conditions;

- Client enters into liquidation or receivership or enters into any arrangement with its creditors or suffers any similar occurrence under the relevant legislation;

- Client is dissolved;

- Client is granted bankruptcy or its suspension of payment or suffers any similar occurrence under the relevant legislation.

12.2. In the event that Muvipro terminates an Agreement in accordance with the preceding paragraph, the Client will pay Muvipro its full fee and all of Muvipro's costs or, at Muvipro's sole discretion, the full price.

12.3. All provisions, which by their nature should remain in force after termination, shall survive termination and/or expiration of this Agreement.

## **13. Applicable law and forum**

13.1. This agreement is and will be solely governed by Dutch law.

13.2. The parties shall submit all disputes arising out of or relating to an Agreement exclusively to the Amsterdam Court.