

General Terms and Conditions

PER FEBRUARY 1, 2014

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Definitions

As used herein and throughout this Agreement:

1.1 Agreement

Agreement means the entire content of this General Terms and Conditions document together with any other proposals, supplements, exhibits, schedules or attachments hereto.

1.2 Client Content

Client Content means all materials, information, photography, writings and other creative content provided by Client for use in the preparation of and/or incorporation in the Deliverables.

1.3 Author's rights

Author's rights means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under Auteurswet, the Dutch Copyright Act, and international conventions, agreements, treaties, and regulations.

1.4 Deliverables

Deliverables means the final versions of services and work product provided by The Sound of Applause and accepted by Client in the form and media specified in the Proposal.

1.5 Final Art

Final Art means all creative content developed, created or commissioned by The Sound of Applause, exclusively for the Project and incorporated into and delivered as part of the Deliverables, including but not limited to all visual elements, graphic design, illustration, photography, animation, typographic treatments and text, modifications to Client Content, and The Sound of Applause's selection, arrangement and coordination of such elements together with Client Content and/or Third Party Materials.

1.6 Preliminary Works

Preliminary Works means all artwork including, but not limited to, concepts, sketches, visual presentations, or other alternate or preliminary

designs and documents developed by The Sound of Applause and which may or may not be shown and or delivered to Client for consideration but do not form part of the Final Art.

1.7 Project

Project means the scope and purpose of Client's identified usage of the work product as described in the Proposal.

1.8 Services

Services means all services and the work product commissioned by Client and to be provided to Client by The Sound of Applause as described and otherwise further defined in the Proposal.

1.9 Third Party Materials

Third Party Materials means proprietary third party materials which are incorporated into the Deliverables, including without limitation stock photography or illustration.

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Agreements, Offers, Confirmations

2.1 General terms and conditions

These General Terms and Conditions apply to the preparation, content and performance of all agreements between Client and The Sound of Applause.

2.2 Proposals, offers and estimates

All proposals are without commitment and are valid for 30 days. Prices quoted may be subject to change owing to unforeseen changes in the work. Prices are exclusive of VAT and other government levies. The rates and offers quoted will not automatically apply to future commissions.

2.3 Confirmation

Proposals must be confirmed by Client in writing. If Client fails to do so but consents to The Sound of Applause commencing the Services commissioned, the terms of this Agreement will be deemed to have been agreed to. Any subsequent oral agreements and stipulations will not

be binding on The Sound of Applause unless confirmed in writing.

2.4 Multiple contractors

If Client wishes to commission identical Services to a party other than The Sound of Applause or has already commissioned the Services to another party, they must inform The Sound of Applause accordingly in writing, stating the names of those other parties.

2.5 Relationship of the parties

The Sound of Applause shall provide the Services under the general direction of Client, but The Sound of Applause as an independent contractor shall determine, in its sole discretion, the manner and means by which the work is accomplished. This Agreement does not create a partnership or joint venture and neither party is authorized to act as agent or bind the other party except as expressly stated in this Agreement. Deliverables shall not be deemed a work for hire as that term is defined under the Dutch Copyright Act. All rights, if any, granted to Client are contractual in nature and are wholly defined by the express written agreement of the parties and the various terms and conditions of this Agreement. The Sound of Applause's affiliates or contributing artists are not employees of Client.

3 Performance of the Agreement

3.1 Performance

The Sound of Applause must make every effort to perform the commissioned work carefully and independently, to promote Client's interests to the best of their ability and to achieve a result useful to Client. To the extent necessary, The Sound of Applause must keep Client informed on the progress of the work.

3.2 Delivery

Client must do any and all actions that are reasonably necessary or required to enable The Sound of Applause to deliver the commissioned work

punctually and properly, in particular by securing the supply of complete, sound and clear data or materials in a timely manner.

3.3 Terms

Terms quoted by The Sound of Applause for completion and delivery of the work are approximations only, unless the nature or content of the agreement requires otherwise. If the stipulated term is exceeded, Client must give The Sound of Applause notice of default in writing.

3.4 Permits and quality standards

Unless otherwise agreed, the performance of tests, the application for permits and the assessment whether Client's instructions comply with statutory or quality standards do not fall within the scope of the work commissioned to The Sound of Applause.

3.5 Publication and reproduction

Prior to production, reproduction or publication, the parties agree to mutually grant each other the opportunity to check and approve the final draft, prototype or proof of the design. If The Sound of Applause is to place orders with or give instructions to manufacturing companies or other third parties, whether or not in Client's name, Client must confirm its aforesaid approval in writing at The Sound of Applause's request.

3.6 Complaints

Any complaints to The Sound of Applause must be filed in writing at the earliest possible time but not later than within 10 business days after completion and delivery of the work commissioned, failing which Client will be deemed to have accepted the work commissioned in its entirety.

4 Fees

4.1 Fees and additional costs

In consideration of the Services to be performed by The Sound of Applause, Client shall pay to The Sound of Applause fees in the amounts and

according to the payment schedule set forth in the Proposal. Additionally, Client shall pay to The Sound of Applause all applicable sales or value added taxes and any costs incurred in the performance of the Services including but not limited to postage, shipping, courier, typesetting, blueprint, presentation material, photocopy, parking, third-party licensing and equipment rental fees, even if calculated or assessed subsequent to the payment schedule.

4.2 Additional work

If The Sound of Applause is required to perform additional work due to late delivery or non-delivery of complete, sound and clear Client Content, or any change or error in instructions or briefings, such additional work will be charged separately.

4.3 Statement of account

If the fee to be paid is in any way subject to facts or circumstances to be evidenced by Client's accounting records, The Sound of Applause will be entitled upon receiving a statement of account from Client to have Client's accounting records audited by an accountant to be selected by The Sound of Applause. If the results of the accountant's audit differ from Client's report and statement of account, the costs of the audit will be for Client's account.

5 Payment

5.1 Payment obligation

Unless agreed otherwise in writing, payments must be made within 30 days of the invoice date. A late payment fee of maximum €40 and default interest at the statutory rate defined by Dutch legislation is payable on all overdue balances without the necessity of a reminder. Payments will be credited first to late payment charges and next to the unpaid balance. Client shall be responsible for all collection or legal fees necessitated by lateness or default in payment. The

Sound of Applause reserves the right to withhold Deliverables and grants of any license to use under this Agreement if accounts are not current or overdue invoices are not paid in full.

5.2 Periodic payments

The Sound of Applause will have the right to invoice Client at monthly intervals for work performed and costs incurred in the performance of the work commissioned, and will provide Client with an overview of the work completed during these intervals.

5.3 Reduction and/or settlement

Client will pay the amounts due to The Sound of Applause without any reduction or set-off, except for settlement against adjustable advance payments relating to the agreement which Client may have made to The Sound of Applause. Client is not entitled to suspend payment of invoices for work that has already been performed.

6 Intellectual and other property rights

6.1 Intellectual property rights

Unless otherwise agreed, all Author's Rights arising from the work commissioned will vest in The Sound of Applause. If any of such rights can be acquired only by registration, The Sound of Applause will have the sole and exclusive power to effect such registration. If Third Party Materials are used in the Services, Client shall be responsible for respecting any Author's Rights and usage limitations placed on the property.

6.2 Investigation to existing rights

Unless otherwise agreed Services do not include conducting research for the existence of rights, including patents, trademark rights, drawing or design rights, copyrights or portrait rights of third parties nor any investigation into the possibility of such forms of protection for Client.

6.3 Imprint of name

In accordance with the Dutch Copyright Act and international agreements on moral rights, unless the work is not suitable for that purpose, The Sound of Applause as the copyright and author's rights holder will at all times be entitled to imprint or otherwise mark its name and the name of the contributing artist on or into the Deliverables. The Sound of Applause also has the right to have this imprint or mark removed, to protect the integrity of the work, and to object and bar any alteration, distortion, or mutilation of the work. Client may not publish or reproduce the work without identifying The Sound of Applause and the contributing artist by name without prior authorization.

6.4 Property

Unless otherwise agreed, all Preliminary Works made by The Sound of Applause stored in any form on any medium will remain property of The Sound of Applause, irrespective of whether they were made available to Client or to third parties.

6.5 Retention

Upon completion of the work commissioned, neither Client nor The Sound of Applause will have any obligation to retain any of the materials and data used.

6.6 Client Content

Client Content, including all pre-existing trademarks, shall remain the sole property of Client or its respective suppliers. Client hereby grants to The Sound of Applause a nonexclusive, nontransferable license to use, reproduce, modify, display and publish Client Content solely in connection with The Sound of Applause's performance of the Services and limited promotional uses of the Deliverables as authorized in this Agreement.

7 Use and Licensing

7.1 User license

Upon fulfillment of Client's obligations under the Agreement, Client will acquire a licence to use the work solely for purposes of publication and reproduction as such purposes were agreed upon when the Services were commissioned. If no such specific purposes have been agreed upon, the licence will be limited to that manner of use of the design on which firm intentions existed on the date when the work was commissioned. Such intentions must have been verifiably stated to The Sound of Applause prior to the conclusion of the Agreement. The license granted within this Agreement will be considered null and void in the presence of a separate License Agreement signed by Client, The Sound of Applause, and any participating third parties, from the date of signature of such a License Agreement by The Sound of Applause. The terms of use of the work shall henceforth be stipulated by the separate License Agreement.

7.2 Unlawful use and/or amendment

Without prior written approval from The Sound of Applause, Client will not be entitled to any use of the work that is broader or different from the use agreed. In the event of broader or different use on which no agreement was reached, including any amendment, mutilation or infringement on the Preliminary Works or Deliverables, The Sound of Applause and/or its affiliates and contributing artists will be entitled to compensation due to infringement of their rights of at least 300% the agreed fee, or a fee that is reasonably and fairly proportional to the infringement committed, without prejudice to The Sound of Applause's right to claim reimbursement of the damage actually incurred.

7.3 Termination of licence

Client will not be permitted to use the Deliverables made available and any licence granted to

Client in the context of the work commissioned will lapse from the moment that Client fails to fulfil its payment or other obligations under the Agreement or to do so in full, or is otherwise in default, or if the work commissioned is terminated early for any reason whatsoever, unless the consequences are contrary to the principles of reasonableness and fairness.

7.4 Promotion purposes

The Sound of Applause and its affiliates or contributing artists may use the design at their discretion for their own publicity or promotional purposes, including but not limited to exhibition in printed portfolios, websites, design contests and others, with due observance of Client's interests.

8 Engagement of third parties

8.1 Third parties

The Sound of Applause is legally entitled to independently commission assistants, agents or third parties with the execution of the work. Unless otherwise agreed, instructions to third parties to be given in the context of executing the work commissioned will be given by or on behalf of Client. At Client's request The Sound of Applause may act as an agent for Client's account and risk. The parties may agree on a fee for such services.

8.2 Costs

If The Sound of Applause provides an estimate of third-party costs at Client's request, such estimate will be an approximation only. If required, The Sound of Applause may seek quotations from third parties on Client's behalf.

8.3 Conditions

If The Sound of Applause procures goods or services from third parties in the performance of the Services commissioned, for The Sound of Applause's own account and risk and on the basis of

an express agreement, the general conditions of such supplier with regard to the quality, quantity, properties and delivery of such goods or services will also apply to Client.

9 Notice of termination and dissolution of an Agreement

9.1 Termination by client

If Client gives notice of termination of an agreement, Client must pay, in addition to damages, the fee owed to The Sound of Applause and the costs incurred in connection with the work performed until that date.

9.2 Termination by The Sound of Applause

If the agreement is terminated by The Sound of Applause on the grounds of breach by Client in the performance of the agreement, Client will be required to pay, in addition to damages, the fee owed to The Sound of Applause and the costs incurred in connection with the work performed until that date. In this context any conduct by Client on the grounds of which The Sound of Applause cannot reasonably be required to complete the work commissioned will also be regarded as breach.

9.3 Compensation

The damages referred to in the preceding two paragraphs of this article will comprise at least the costs arising from obligations undertaken by The Sound of Applause in its own name with third parties for the performance of the work commissioned, as well as at least 30% of the balance of the fee that Client would owe The Sound of Applause if the work commissioned were fully completed.

9.4 Bankruptcy

Both The Sound of Applause and Client will have the right to terminate the agreement in whole or in part with immediate effect if the other party

is declared bankrupt or is granted a suspension of payments (whether or not provisional). If Client is declared bankrupt, The Sound of Applause will have the right to terminate the right of use or any licenses to the work granted, unless the consequences would be contrary the principles of reasonableness and fairness.

9.5 Performance default

In the event of termination by Client on the grounds of breach in the performance of The Sound of Applause's obligations, the performance already completed and the related payment obligation will not be subject to cancellation, unless Client provides evidence that The Sound of Applause is in default of that performance. Amounts that The Sound of Applause has invoiced before the dissolution for work performed or delivered properly under the agreement will remain payable in full with due observance of the previous sentence and will fall due immediately upon termination.

9.6 Recurrent work of similar nature

If The Sound of Applause's work consists of recurrently performing work of a similar nature, the agreement in question will be valid for an indefinite period of time, unless otherwise agreed in writing. Such agreement may be terminated only by written notice given with due observance of a reasonable notice period of not less than two months.

- except for Third Party Materials and Client Content, The Sound of Applause and/or its affiliates or contributing artists are the authors of the final work within the meaning of the Auteurswet (Dutch Copyright Act) and as the Author's Rights owners have the power of disposition of the work,
- in the event that the final work includes the work of independent contractors commissioned for the project by The Sound of Applause, it shall have secure agreements from such contractors granting all necessary rights, title, and interest in and to the work sufficient for The Sound of Applause to grant the use rights to the work and
- to the best of The Sound of Applause's knowledge, the final work provided by it and its subcontractors does not infringe the rights of any party, and use of same in connection with the project will not violate the rights of any third parties. In the event Client or third parties modify or otherwise use the work outside of the scope or for any purpose not identified in the Proposal or this Agreement or contrary to the terms and conditions noted herein, all representations and warranties of The Sound of Applause shall be void.

EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS AGREEMENT, THE SOUND OF APPLAUSE MAKES NO WARRANTIES WHATSOEVER. THE SOUND OF APPLAUSE EXPLICITLY DISCLAIMS ANY OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR COMPLIANCE WITH LAWS OR GOVERNMENT RULES OR REGULATIONS APPLICABLE TO THE WORK.

10 Warranties and indemnities

10.1 Warranty

The Sound of Applause hereby represents, warrants and covenants to Client that it will provide the work in a professional and workmanlike manner and in accordance with all reasonable professional standards for such services. The Sound of Applause further represents, warrants and covenants to Client that

10.2 Indemnification

Client indemnifies The Sound of Applause or its affiliates or contributing artists engaged by The Sound of Applause in the performance of the Services against any third-party claim or action arising

ing from the application or use of the work created by The Sound of Applause or parties referred to above. Client also indemnifies The Sound of Applause against any claim or action relating to intellectual property rights in Client Content used in the performance of the work commissioned.

11 Liability

11.1 Liability

The Sound of Applause will not be liable for:

- Errors or defects in Client Content;
- Misunderstandings, errors or defects in the performance of the agreement if such misunderstandings or errors were caused by acts of Client, such as late delivery or nondelivery of complete, sound and clear Client Content
- Errors or defects by third parties engaged by or on behalf of Client;
- Inaccuracies in offers made by suppliers, or prices quoted by suppliers being exceeded;
- Errors or defects in the Deliverables if Client has given its approval in accordance with the provisions of Article 2.5 or has had the opportunity to perform an inspection and has declined to do so; or
- Errors or defects in the Deliverables if Client has not had a particular model or prototype prepared or a particular test performed and the errors would have been apparent in such model, prototype or test.

11.2 Direct damage

The Sound of Applause will be liable only for direct damage attributable to it. Direct damage will include only:

- Reasonable costs to assess the cause and extent of the damage, to the extent that such assessment concerns damage within the meaning of this Agreement
- Any reasonable costs necessarily incurred to have The Sound of Applause's defective performance conform to the Agreement; and

- Reasonable costs incurred to prevent or limit the damage, to the extent that Client demonstrates that those costs led to a limitation of the direct damage referred to in these general conditions. The Sound of Applause's liability for all other damage, such as indirect damage, including consequential damage, loss of profits, mutilated or lost data or materials, or damage due to business interruption is hereby excluded.

11.3 Limitations to liability

Except in the event of intent or wilful recklessness by The Sound of Applause or The Sound of Applause's management – therefore except for persons under their control – The Sound of Applause's liability for damage or loss arising from an agreement or any wrongful act committed against Client will be limited to the amount invoiced for the portion of the work performed, less the costs incurred by The Sound of Applause in the engagement of third parties, on the understanding that that amount will not exceed EUR 500,- and will in no event be higher than the fee for the commissioned work.

11.4 Expiration of liability

Any and all liability will expire twelve months from the date of completion of the work commissioned.

11.5 Copies of materials

Where reasonably possible Client will be required to retain copies of materials and data he has supplied until Services have been completed. If Client fails to do so The Sound of Applause cannot be held liable for any damage or loss that would not have occurred if such copies had existed.

12 Other terms

12.1 Transference to third parties

Neither party may assign, whether in writing or orally, or encumber its rights or obligations under

this Agreement or permit the same to be transferred, assigned or encumbered by operation of law or otherwise, without the prior written consent of the other party, except in the event and as part of a transfer of the entire business.

12.2 Confidentiality

Each party acknowledges that in connection with this Agreement it may receive confidential or proprietary technical and business information and materials of the other party, including without limitation Preliminary Works. Each party, its agents and employees shall hold and maintain in strict confidence all confidential information, shall not disclose confidential information to any third party, and shall not use any confidential information except as may be necessary to perform its obligations under the Proposal, except as may be required by a court or governmental authority. Notwithstanding the foregoing, confidential information shall not include any information that is in the public domain or becomes publicly known through no fault of the receiving party, or is otherwise properly received from a third party without an obligation of confidentiality. The same duty of confidentiality in respect of such facts and circumstances must be imposed on any third parties engaged in the performance of the work commissioned.

12.3 Modification/Waiver

This Agreement may be modified by the parties. Any modification of this Agreement must be in writing, except that The Sound of Applause's invoices may include, and client shall pay, expenses or costs that client authorizes by electronic mail in cases of extreme time sensitivity. Failure by either party to enforce any right or seek to remedy any breach under this Agreement shall not be construed as a waiver of such rights nor shall a waiver by either party of default in one or more instances be construed as constituting a continuing waiver or as a waiver of any other breach.

12.4 Force Majeure

The Sound of Applause shall not be deemed in breach of this Agreement if it is unable to complete the work or any portion thereof by reason of fire, earthquake, labor dispute, act of public enemy, death, illness or incapacity of The Sound of Applause or any local, state, federal, national or international law, governmental order or regulation or any other event beyond its control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, The Sound of Applause shall give notice to Client of its inability to perform or of delay in completing the Services and shall propose revisions to the schedule for completion of the Services.

12.5 Governing law and dispute resolution

All agreements between The Sound of Applause and Client are governed by Dutch law. The Court of Amsterdam will have exclusive jurisdiction to hear and decide any dispute between The Sound of Applause and Client unless it has been otherwise agreed in writing by means of a document validly signed by or on behalf of The Sound of Applause itself. The Sound of Applause however reserves the right to sue counterparts wherever they are established or domiciled or where claims can be enforced against them.

12.6 Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.

12.7 Headings

The numbering and captions of the various sections are solely for convenience only and shall not affect the scope, meaning, intent or interpretation of the provisions of this Agreement.

The Sound of Applause

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