



**Netherlands  
Society of  
Cinematographers**

## General Terms and conditions

### **Article 1 Applicability**

1.1 These General Terms and Conditions apply to all offers and agreements, and all provisions and services supplied as ensue from the said agreements, between (a company of) a Director of Photography, henceforth to be referred to as the D.O.P. and the Client.

1.2 In applying these General Terms and Conditions a member of the Netherlands Society of Cinematographers (NSC) working as a camera assistant, camera operator or clapper loader, is equated with the D.O.P. In this case articles 11.2, 11.3, 12, 14.6 and 14.7 do not apply.

1.3 The General Terms and Conditions of the Client do not apply, unless expressly accepted in writing by the D.O.P.

### **Article 2 Offers**

2.1 All offers made by the D.O.P. are noncommittal. E.g. further information regarding the nature of the assignment may lead to offers being amended.

2.2 The D.O.P. reserves the right to refuse offers without being obliged to account for his or her decision.

### **Article 3 Materialization of the Agreement**

3.1 An agreement will only materialize in the event that the D.O.P. has issued express written acceptance of the assignment, or in the event that the D.O.P. has begun work on the assignment.

3.2 In the event that the D.O.P. issues written confirmation of the assignment, the content of the said confirmation is binding for the Client unless the Client disputes the accuracy of the confirmation of the assignment in writing within eight days of the date on which the said confirmation was sent.

### **Article 4 Changing the Agreement**

4.1 A departure from these General Terms and Conditions is only valid if expressly agreed in writing between the D.O.P. and the Client.

### **Article 5 Liability**

5.1 Except in the event of intent or gross negligence on the part of the D.O.P., the D.O.P. can never be held liable for injury, loss or damage of whatever nature to the

Client, nor to personnel employed by the Client and/or a third party which may be sustained or incurred during the carrying out of the assignment or may be sustained or incurred as a result of (a) the failure to carry out the assignment; (b) the failure to carry out the assignment on time, or (c) the failure to carry out the assignment in a fitting manner.

5.2 Without prejudice to what is stipulated in the previous clause, liability on the part of the D.O.P. is limited to the amount that the Client would have been or has been charged by the D.O.P. for the part of the assignment to which the alleged injury, loss or damage is said to apply.

5.3 Except in the event of intent or gross guilt on the part of the D.O.P., the Client is liable for all injury, loss or damage to the person or property of the D.O.P. which may be sustained or incurred during the carrying out of the assignment.

5.4 The Client is obliged to take out insurance cover for the injury, loss or damage referred to in the previous or clauses of this article, and to present the said policy to the D.O.P. for perusal at the first request of the latter.

#### **Article 6 Indemnification**

6.1 The Client indemnifies the D.O.P. entirely and unconditionally against all claims for compensation which may be made by a third party for:

a) injury, damages or losses incurred as a result of or during the carrying out of the assignment; b) losses incurred as a result of infringement of copyright or portrait rights, or any other right of intellectual ownership.

#### **Article 7 Force Major**

7.1 In the event that the D.O.P. is unable to fulfil an essential part of his or her obligations as a result of force major, which also includes illness, either party is entitled to dissolve the agreement without the need for legal intervention and without the other party being entitled to compensation for losses (to be) suffered by the other party as a result of the fact that the agreement has been dissolved.

#### **Article 8 Term of Payment**

8.1 Payment for work carried out and provisions supplied within a period of fourteen days is to be made no later than the day following the said fourteen-day period.

8.2 Payment is to be made no later than the date specified in the previous clause in response to an invoice, or by way of advance on an invoice, in the event that the D.O.P. has not yet issued an invoice for the said work carried out/provisions supplied.

8.3 In the event that an advance is paid, the amount of the said advance is to be equal to the likely amount of the invoice to be issued by the D.O.P. for the work carried out/provisions supplied. The Client is to determine the amount of the advance in consultation with the D.O.P. on the basis of the daily rate plus an

estimate of overtime and costs.

8.4 The D.O.P. is not obliged to issue a statement of advance.

8.5 Any advance paid is to be offset against the invoice or invoices issued by the D.O.P. for the assignment in question. The D.O.P. will immediately repay any excess advance paid. Any shortfall in the payment made by the Client is to be made good within fourteen days of the date on which the invoice or invoices referred to in the previous clause are issued by the D.O.P. The D.O.P. will issue the said invoices within a reasonable period.

8.6 Payment is to be made without deduction or settlement of debts. In the event that the Client has not made payment on the date stipulated in the first clause of this article, or in the event that the term stipulated in the third sentence of the previous clause is exceeded, the Client is considered to be in default without the need for an injunction or notice of default to be served.

8.7. In the event that the term(s) of payment is/are exceeded, the D.O.P. is entitled to increase the sum that the Client is liable to pay under the terms of the agreement by the addition of legal interest calculated from the date on which the Client is considered to be in default with regard to the payment of the outstanding sum, together with all extra judicial collection costs.

8.8 The Client is liable to pay extra judicial collection costs in all cases in which the D.O.P. has enlisted the aid of a third party with a view to recovering the outstanding sum. Extra judicial collection costs amount to 15% of the principal sum, with a minimum of NLG 250,00

8.9 The simple fact that the D.O.P. has enlisted the aid of a third party obliges the Client to pay the said extra judicial costs.

## **Article 9 Suspension**

In the event that the Client is in default, the D.O.P. is entitled to suspend the carrying out of the agreement without prejudice to any other rights conferred by law or by these General Terms and Conditions.

## **Article 10 Working Hours and Fee**

10.1 The D.O.P. will work for a maximum of ten hours per day. Travelling time to and from the place at which the work is carried out is not included.

10.2 In the event that the D.O.P. works for more than ten hours on the assignment on any particular day, unless expressly agreed to the contrary in writing, the Client will pay an additional fee of 10% of the agreed daily rate per hour for the first four additional hours of work, and 20% of the agreed daily rate per hour for all additional hours thereafter.

## **Article 11 Filming and Preparation**

11.1 In these General Terms and Conditions a working day refers to an eight-hour period, which may or may not be consecutive, in which the D.O.P. carries out work.

11.2. The number of working days on which the D.O.P. carries out work in preparation for filming within the context of an assignment, and for which the Client

is to pay the D.O.P. a fee, will be at least one third of the total number of days of filming.

11.3 The days of preparation will precede the period in which the days of filming are scheduled to take place on the understanding that if during the said period no filming takes place on more than two days in a seven-day period, the extra days are days on which preparatory work can be carried out.

11.4 The fee for a working day on which the D.O.P. carries out preparatory work will be at least fifty percent of the fee for a day of filming.

### **Article 12 Finishing**

The Client undertakes to allow the D.O.P. the opportunity to supervise the finishing at each of the carriers via which distribution is to take place. Unless expressly agreed to the contrary in writing, the fee for a working day on which the D.O.P. carries out work on behalf of this collaboration is at least fifty percent of the fee for a day of filming.

### **Article 13 Extension**

In the event that the assignment cannot be carried out within the agreed number of days, the D.O.P. will sign a new agreement with the Client for the additional days required.

### **Article 14 Copyright**

14.1 Provided that the Client's obligations under the terms of the agreement in question have been met, the Client will automatically acquire the sole right to duplicate and issue the contribution made by the D.O.P. as a result of the assignment, without any further deed being required.

14.2 The transfer of copyright referred to in the previous clause does not apply in the event that and to the extent that the D.O.P. has transferred (part of) the copyright to a management organization for collective collection.

14.3 Within the context of this agreement 'issuing' refers to all existing and future forms of screening and/or broadcasting by whatever method and in whatever place(s), as well as the circulation of duplicates.

14.4 In the context of this agreement duplicate refers to producing copies by whatever method and processing by whatever method with a view to realizing the film to which the agreement refers.

14.5 The Client grants the D.O.P. the right to issue and duplicate the result of the assignment exclusively for promotional purposes.

14.6 In the event that the result of the assignment forms part of a film in the sense of article 45 of the Copyright Act, and in the event that titles are included in the said film or in or on promotional material relating to the film, or in the event that usual

titles are included in a similar film, the Client guarantees that the D.O.P. will also be included, unless the D.O.P. declares in writing that he or she does not wish to be so included.

14.7 The title will be included in a position which corresponds to the importance of the assignment to the film as a whole.

14.8 In the event that titles are displayed at the beginning and end of the film, the D.O.P. will be listed at the beginning unless the assignment is of minor importance to the film.

### **Article 15 Dissolution**

15.1 Without prejudice to what is stipulated elsewhere in these General terms and Conditions, the D.O.P. is entitled to dissolve an agreement without the need for legal intervention and without the need for notice of default to be served under the following circumstances:

- a. the Client files a petition for bankruptcy;
- b. the Client is declared bankrupt;
- c. the Client applies for a moratorium;
- d. the Client is granted a moratorium;
- e. the Client forfeits the right to dispose of the Client's capital, or a substantial portion thereof as a result of attachment or some other proceedings;
- f. the D.O.P. has good reason to suspect that the Client is unable to meet the obligations incumbent upon the latter, or is unable to meet the said obligations on time.

15.2 In the event that the agreement is dissolved, the claims of both parties are immediately payable. The Client is liable for any direct, indirect or consequential losses suffered by the D.O.P. as a result of the fact that the agreement has been dissolved. The D.O.P. is not liable for any direct, indirect or consequential losses (to be) suffered by the Client as a result of the fact that the agreement has been dissolved.

### **Article 16 Applicable Law and Disputes**

16.1 All disputes ensuing from or related to offers made, services and provisions supplied and agreements concluded under these General Terms and Conditions are to be exclusively brought before the presiding judge within the district of Amsterdam.

16.2 All offers made, services and provisions supplied and agreements concluded under these General Terms and Conditions are exclusively subject to Dutch law.

### **Article 17 Validity**

In the event that one or more of the stipulations of these General Terms and Conditions are declared null and void, invalid or infeasible, the remaining stipulations of these General Terms and Conditions remain in full force.

Amsterdam, 12-10-1997