

## **General delivery terms & conditions**

### **Article 1: Definitions**

- 1.1. User: Polymammoth – 3D Sculpting & Graphic Design and its legal successors.
- 1.2. Client: natural and legal persons who conclude an agreement with Polymammoth – 3D Sculpting & Graphic Design.

### **Article 2: General**

- 2.1. These conditions apply to all offers and agreements between the user and the client, unless this is explicitly deviated from in writing.
- 2.2. The user explicitly rejects the applicability of any conditions from the client.
- 2.3. If any condition becomes fully or partly void or invalid, the remaining conditions remain in full force. The user will then work with the client to replace the void or voided condition by a new condition. The new condition is drawn up according to the purpose and intent of the condition to be replaced.
- 2.4. These conditions also apply to agreements whereby user uses third parties for implementation.
- 2.5. In case of lack of clarity concerning a condition, it must be interpreted in the spirit of these terms and conditions. This explanation is also used when a situation arises that is not covered in these conditions.
- 2.6. The user can, to the benefit of the client, deviate from these conditions or implement them in a different manner. However, this does not mean that these conditions do not apply. The user reserves the right to require compliance with these conditions.

### **Article 3: Offer**

- 3.1. The offer is non-binding and valid for 14 days following the date of the offer.
- 3.2. If the client has not accepted the offer in writing within the time limit, the offer expires and the user is entitled to amend the offer or withdraw it.
- 3.3. The user has the right to amend an offer or withdraw when it is based on inaccurate or incomplete information provided by the client.

### **Article 4: Agreement**

- 4.1. The agreement is concluded in writing and for an indefinite period, unless the nature or content of the agreement dictates otherwise.
- 4.2. The agreement sets out the services to be performed and includes the hourly rate or agreed price. When it appears the agreement is not sufficient, or if one of the parties wishes to amend the agreement, this can be done in mutual agreement. The agreed price may possibly be changed. The change is agreed in writing.
- 4.3. In the implementation of the agreement, the user adheres to the requirements of good craftsmanship. The user implements the agreement to his best knowledge and abilities, based on the known state of the art at that time. The user only has a best efforts obligation and does not guarantee to achieve a desired result.
- 4.4. When dividing the agreement into separate parts, the user can choose to do invoicing separately. The user can suspend parts of the agreement if he needs approval for the results of the previous part.
- 4.5. The user has the right to amend the agreement or withdraw when the agreement is based on inaccurate or incomplete information provided by the client. The user can suspend the agreement or charge extra when the client does not provide the required information in a timely, inaccurate or incomplete manner.
- 4.6. The user may terminate or modify the agreement at any time with a notice period of one month. The user may terminate or modify the agreement at any time without prior notice if there are circumstances that prevent the execution of the agreement or in case the unaltered maintenance of the agreement cannot be demanded from the user. In addition, the user can suspend the agreement without notice or terminate if the client acts contrary to the agreement or these conditions. The client cannot make interim changes or terminate the agreement.
- 4.7. At the discretion of the user, the agreement may be fully or partially carried out by a third party.
- 4.8. The user may suspend or terminate the agreement with immediate effect if the client fails to, or in a timely manner, comply with the obligations in the agreement or the user has a well-founded fear that this will occur and this default justifies suspension or termination. In this case, the user has no obligation to pay damages or compensation, while the client is obliged to do so because of breach of contract.
- 4.9. The agreement is terminated when the services are performed by the user and the amount is paid by the client.
- 4.10. The user has the right to terminate the agreement without further notice with immediate effect if the client requests suspension of payment, is granted a suspension of payments, in case of filing bankruptcy or applying for a debt rescheduling arrangement, is declared bankrupt or the debt rescheduling scheme is pronounced or his company is liquidated.

### **Article 5: Amendment of conditions**

- 5.1. The user reserves the right to change these conditions. The amended conditions take effect when they are disclosed to the client.
- 5.2. The client reserves the right to terminate the agreement within two weeks after the amended conditions have been made known to him.
- 5.3. If the client does not respond within two weeks to the communication, the user is entitled to make assume that the client has accepted the amended conditions.

### **Article 6: Fee**

- 6.1. The user's hourly fee are exclusive of VAT, travel and other expenses.
- 6.2. Instead of an hourly fee, a total amount may be agreed upon in advance or interim.

### **Article 7: Prices and payment**

- 7.1. The agreed prices are exclusive of VAT.
- 7.2. Payment must be made within 14 days after the invoice date at a bank account designated by the user in the currency invoiced.
- 7.3. Objections to the invoice must be notified in writing to the user within 14 days of the date of the invoice.
- 7.4. The client is legally in default if he fails to pay within the payment period. The private client is in default if he fails to pay within the

payment period or within a reasonable time after notice. The client owes the statutory interest on the outstanding amount from the date of default until the date of full payment.

7.5. If the client remains in default, all reasonable extrajudicial and customary legal costs related to the recovery, are charged to the client. Statutory interest on these costs is also charged.

7.6. Payments by the client will first cover the costs of recovery, then the payment of all interest and finally the payment of the principal amount, even when the client specifies otherwise upon payment.

7.7. Without the consent of the user, the client is never entitled to settle a debt of the user with an invoice. Objections raised by the client against the services or the amount of the invoice do not suspend the payment obligations. The client also may not suspend payment for other reasons, unless he can rely on one of the articles under Section 6.5.3. of Book 6 of the Dutch Civil Code.

7.8. The user is entitled to have the client pay a deposit. The client is required to complement this deposit if the user considers it desirable.

### **Article 8: Liability**

8.1. Should the user be liable for any damages, the user's liability is limited to the direct damages. The user's liability is limited to the invoice value of the agreement, at least to that part of the agreement to which the liability relates. The user's liability is in any case limited to the sum for which the user is assured.

8.2. The user is never liable for indirect damages, including consequential damages, lost profits, lost savings and damage due to business interruption. The user is also never liable for damage caused because the user assumed incorrect or incomplete information provided by the client.

8.3. Direct damage is exclusively: the reasonable costs incurred to determine the cause and extent of the damage, the reasonable costs incurred to still implement the agreement correctly and reasonable costs to prevent or limit the damage. These costs only fall under the direct damage if it is found that the damage is attributable to the user.

8.4. The limitation of the user's liability is only valid if there is no damage as a direct result of intent or gross negligence by the user, one of his subordinates or third parties.

8.5. If the user can not or does not properly fulfil the agreement at the hands of the client, the client is held responsible for all direct and indirect damage on the part of the user.

8.6. The client indemnifies the user against any claims of third parties suffering damage in connection with the execution of the agreement and of which the cause can be attributed to another than the user. If for this reason the user is addressed by third parties, the client is obliged to assist the user both outside and in law and immediately do for him which can be expected in that case. Should the client fail to undertake adequate measures, the user is, without notice, entitled to undertake these measures. All costs and damages that result on the part of the user and third parties are for the account and risk of the client.

#### **Article 9: Intellectual Property**

9.1. User retains all intellectual property rights.

9.2. The user may use all the knowledge that he obtains through the execution of the agreement for other purposes, except for confidential data of the client.

#### **Article 10: Data**

10.1. Data from the client will be treated confidentially by the user and never sold to third parties without prior consent of the client.

10.2. The user uses the data from the client for direct marketing in a limited manner. In this case, direct marketing includes direct mailing and telemarketing.

#### **Article 11: Force majeure**

11.1. In case of force majeure, user obligations arising from the agreement concluded with the client, are suspended. The user notifies the client as soon as possible of the force majeure situation.

11.2. Force majeure means, in addition to what is understood in law and jurisprudence, all external causes, foreseen or unforeseen, which the user cannot influence and whereby

the user is unable to meet his obligations. This could include, among other things: strikes, technical complications, illness of deployed personnel, governmental measures, failures, etc...

11.3. The user has the right to suspend his obligations during a force majeure. The user has no obligation to pay any damages as a result of the force majeure.

11.4. The parties have the right to terminate the agreement if the force majeure lasts longer than 60 days. The parties have no obligation to pay any damages as a result of the termination.

11.5. If the user has already partially fulfilled or can still meet the agreement and the section is of independent value, the user is entitled to invoice this separately. There will be a separate agreement; the client is therefore obliged to pay this invoice.

#### **Article 12: Applicable law and disputes**

12.1. To all legal relationships whereby the user is party, Dutch law is exclusively applicable, also if an agreement wholly or partly executed abroad or if the party involved in the legal relationship resides there. The applicability of the Vienna Sales Convention is excluded.

12.2. The court in the location of the user is exclusively competent to take note of any disputes, unless the law requires otherwise. Nevertheless, the user has the right to submit the dispute to the legally competent court.

12.3. The parties will first appeal to the courts after they have done their utmost to settle a dispute in mutual consultation.