

General terms and conditions

In effect from November 1, 2009

EVOCreative s.r.o., with its registered seat at Veletržní 841/45, 170 00 Prague 7 - Holešovice, Identification No. 27195767, Tax Identification No. CZ27195767, registered in the Commercial Register kept by the Municipal Court in Prague, Section C, Insert 103584, releases hereby pursuant to Section 273 law No. 513/1991 Sb. Coll., Commercial Code, as amended (hereinafter referred to as "Commercial Code"), following

general terms and conditions

(Hereinafter referred to as „General terms and conditions“)

1. Definitions

For the purposes of these General terms and conditions the following definitions should be understood as follows:

- 1.1. **The Agency or Provider/Supplier** – as EVO Creative s.r.o., with its registered seat at Veletržní 841/45, 170 00 Prague 7- Holešovice, Identification No. 27195767
- 1.2. **Client or Client/Sponsor/Customer** – as an Entrepreneur or as a Consumer
- 1.3. **Entrepreneur** – as a person in the sense of Section 2 of the Commercial Code
- 1.4. **Consumer** – as physical person that while entering into an agreement with the Agency does not act within his or her commercial or other entrepreneurial activity
- 1.5. **Contractual parties or Parties** – the Agency and the Client
- 1.6. **Third party/person** – legal entity providing services / subcontracts to Agency (printing, courier, etc.)
- 1.7. **Printing materials** – printing documentation/data supplied in pdf or jpg format (see Section 7.10.)
- 1.8. **Web design** – a draft of structure and appearance of web pages and web applications (see Section 7.11.)
- 1.9. **Flash animations** - online interactive animations and presentations created by Flash software supplied in the swf format (see Section 7.12.)

1.10. **HTML development** – a development of the HTML source code, i.e. of the code in which the web pages are saved on the server and that enables its display on the Internet (see Section 7.13.)

1.11. **CMS** – administrative systems development – development of systems for webpage content management (see Section 7.14.)

1.12. **Agreement** - agreement on providing services (i) in the scope of creative webpage design (in particular of corporate identity design, Printing materials design, web presentations design and of further online applications), (ii) in the scope of webpage and further online applications development (in particular of HTML and administrative systems CMS development), or (iii) another written agreement on cooperation/providing services entered into by the Agency and the Client or (iv) an obligation occurred by means stated in these General terms and conditions.

1.13. **Subject-matter or Performance/Order** - subject-matter of the agreement – activities or services provided by the Agency to the Client pursuant to an Agreement entered into.

1.14. **Price or Remuneration** - price for the activities or services provided determined in the Agreement.

1.15. **Post office** – a subject authorized to consignment carriage and delivery in the sense of the Postal Act.

2. Recitals

2.1. These General terms and conditions shall govern relations between the Agency and the Client stemming from the Agreement implementation.

2.2. These General terms and conditions are binding for the Agency and the Client and form an integral part of the Agreement. By entering into an Agreement their mutual relationship between the Parties shall be governed by these General terms and conditions.

2.3. Unless the Agreement or another written agreement between the Parties states otherwise, these General terms and conditions are applicable under all circumstances. In the event of any discrepancy between the specific covenants between the Parties and these General terms and conditions, the specific covenants shall prevail.

3. Applicable law and legal regime

3.1. The contractual relations between the Parties shall be governed by and construed in accordance with the laws of the Czech Republic.

3.2. The Parties by entering into an Agreement accept the fact that their mutual contractual relationship shall be governed, pursuant to Section 262 (1) Commercial Code, by the regime of the Commercial Code.

3.3. In the event a Client is undoubtedly a Consumer, the relevant provisions of the Civil Code or specific legal regulation regarding consumer contracts, adhesive contracts, abusive clauses

or other respective provisions shall be applied always, if such provisions protect and favor the Client – Consumer. The Client – Consumer is however responsible for a breach of his or her duties arising from such relations pursuant to the Civil Code and his or her common obligations shall be governed by the Civil Code as well.

4. The Agreement

4.1. By entering into an Agreement the Agency commits itself to provide a Performance as specified in the Agreement and the Client commits to accept it and to pay the agreed Price.

4.2. An Agreement is considered as entered into by confirmation of the Client's order by the Agency or by the acceptance of the Agency's proposal by the Client. The confirmation is considered as a handover of the Subject-matter of the Agreement to the Client in accordance with his or her order. An Agreement is also considered as entered into by takeover of the Performance by the Client and his or her consequent payment.

4.3. In the event of the termination of the contractual relationship the Agency is entitled to reimbursement of the costs reasonably incurred as a result of the Agreement amendment or termination.

5. Price of the Performance

5.1. The Price of the Performance is deemed as contractual and agreed by both Parties in the Agreement. In the event the Price of the Performance is determined in the Agreement, it shall be governed by the Price List of works released by the Agency, in force at the time of the legal relationship creation. By signing the Agreement the Client accepts such prices and the Price of the Performance is hereby considered as agreed.

6. Payment for the Price of the Subject-matter, billing

6.1. The Price of the Subject-matter is due under conditions set in the Agreement upon a tax document – Agency's invoice (hereinafter referred to as „invoice“).

6.2. Unless stated and provided on the invoice otherwise, the invoice is due on 14th calendar day after the day following its issue.

6.3. The invoice (the proforma invoice) shall be handed over or delivered to the Client to the address stated in the Agreement or the address he or she has provided. In case of doubt the invoice is considered as delivered on third day following the day of its dispatch (whereas unless proved otherwise, the day of its dispatch is for these reasons considered as the day following the day of its issue).

6.4. The Client is obliged to pay the whole amount due stated in the invoice, so that the funds should be to the due day already credited to an account of the Agency. A payment by cheque and by postal order type "C" is not accepted.

6.5. The Client is obliged to add to every of his or her payments the identifying variable symbol (the invoice number), indicated on the invoice. The payment without or with incorrect variable symbol, i.e. unidentified payment is considered as unpaid with all its arising consequences.

6.6. An eventual reclamation of the Client regarding the Performance does not constitute a reason for not fulfillment of his or her duty to pay for the Price of Performance in a proper and timely manner.

6.7. Unless stated otherwise, the Agency reserves the right to ask for the payment for the Performance in advance, i.e. prior to or within the Performance of the Subject-matter or its handover, to the extent of 70% of the Price of the Subject-matter. The advance payment is due upon the proforma invoice, issued by the Agency with the maturity of 3 calendar days. Client's delay with the invoice payment correspondingly prolongs for the same number of days the Agency's deadline. In the event of Client's delay with the invoice payment exceeding 14 (fourteen) calendar days is the Agency entitled to withdraw from the Agreement.

6.8. In the event that the project is delayed, cancelled or modified by the client, Evocreative reserves the right to bill immediately for the work that has been completed up until the date of such cancellation or modification. The client must pay in full for the services rendered until such date whether they will use the requested work or not.

7. Agreement implementation

7.1. The Agency is obliged to perform the Subject-matter at its own expense and at their own risk in the deadline stipulated in the Agreement. In the event the Agency recognizes within the Agreement implementation the necessity to prolong the agreed deadline (apart from the situations stated in Sections 7.2. - 7.4.), it is obliged to ask for Client's written approval. Unless stated otherwise, the Agency is allowed to fulfill its contractual obligations before the agreed deadline.

7.2. The Client is obliged to provide the Agency in the agreed deadline with the complete documentation required for the performance of the Subject-matter by the Agency. In the event such deadline is not stated in the Agreement, the Client is obliged to deliver such documentation upon the Agency's notification in its stipulated time-limit.

7.3. In order to approve the particular stages of the Subject-matter performance and to choose the proposed solutions (e.g. by means of commenting and confirming the partial drafts, proofreading etc.), the Client is obliged to provide the Agency with the requested cooperation. In the event such requested cooperation is not provided, the Agency is entitled to interrupt its works on the Subject-matter until the required cooperation is provided.

7.4. Upon the Agency's request, the Client is further obliged (in particular before printing or placing to the internet) to perform within the following 48 hours after its handover, a necessary proofreading of the drafts submitted by the Agency (including the grammatical and spelling proofreading). In the event such requested proofreading is not provided, the Agency is entitled to interrupt its works on the Subject-matter, until the required proofreading is done and/or the drafts approved.

7.5. In the event the material necessary to the Subject-matter performance shall be dispatched to any third person for his or her further processing, photographic works, printing works or binding, the Agency does not bear liability for any damage occurred during such transport or processing.

7.6. In case the Client is due with complete and accurate documentation, needed for the Agency's Subject-matter performance, supply (Section 7.2.) or with proofreading and/or draft approval (Section 7.4.) for more than 30 (thirty) days, the Agency is from this reason entitled to withdraw from the Agreement.

7.7. Any further changes, alterations and amendments of the drafts approved by the Client are considered as an Agreement amendment (change of Subject-matter), based on which is the Client obliged to agree on with the Agency the new Price of the Subject-matter. In the event such new Price of the Subject-matter is not agreed on by the Parties, the Agency will not provide the Client with any further performance.

7.8. The Parties agreed on that for the case of (i) Client's delay with necessary documentation required for the Subject-matter performance supply (Section 7.2.), (ii) Client's delay with required cooperation provision (Section 7.3.), (iii) Client's delay with proofreading and draft approvals (Section 7.4.), (iv) delay of third persons participating in the Subject-matter performance or (v) unusual traffic delays, unexpected illnesses or by external influences beyond the scope of control of the Agency, the Agency is entitled to extension of the agreed time-limits for the period corresponding to such delay.

7.9. In the event the Client insist on using of incomplete or incorrect documentation supplied, the Agency is not liable for possible defects of the Subject-matter occurred.

7.10. The usage of so called elements of third parties (hereinafter referred to as "elements"): the Agency is entitled to, in order to create or to achieve the desired appearance of the Performance, use various elements (in particular photographs, video clips and music/sounds). The Client is entitled to refuse purchase of the elements, with the full knowledge that such refusal will influence the final appearance of the Performance. The Agency has a right to remove all elements that were not purchased; in case the agreed payment schedule is adhered to, the Agency is entitled to supply the rest of the final project, approved by the Client. All approved elements shall be purchased by the Client prior to the project finalization and its dispatch to be printed, delivered or published on the Internet.

7.11. The Client assumes responsibility for using of all purchased elements, used within the Subject-matter performance. The Agency is not liable for any unlawful usage/change of the elements done by the Client or any third party after the Performance delivery or handover or dispatch to manufacturer.

7.12. The Printing materials (see Section 1.6.) are delivered to the Client in pdf or jpg format. In the event the Client carries out the printing of the materials by himself or herself, he or she is obliged to (i.e. before its final adjustment for printing) notify the Agency and provide it with an accurate printer and printing specification and requirements. The Agency is entitled to reimbursement of incurred expenses associated with an additional alteration/adjustment of

the data to be printed. The source codes (in the ai, psd, etc. formats) are considered as a Subject-matter only if explicitly stated in the Agreement. In the event the particular source codes are not pursuant to the Agreement provisions considered as a Subject-matter, the Client is entitled to purchase them from the Agency.

7.13. Web design (see Section 1.7.) – The final design is delivered to the Client in psd format. The Client is not entitled to interfere with the web design created by the Agency without its prior explicit consent.

7.14. Flash animations (see Section 1.8.) – is delivered to the Client in swf format. The source data are considered as a Performance only if explicitly stated in the Agreement. In the event the particular source data is not pursuant to the Agreement provisions considered as a Subject-matter, the Client is entitled to purchase them from the Agency.

7.15. HTML development (see Section 1.8.) - The Complete source code of the webpages (HTML & CSS, plus graphics in jpg, gif, or png formats) are delivered to the Client in zip format. The Performance is understood as introduction the web pages into operation. The source data are considered as a Performance only if explicitly stated in the Agreement. In the event such source data is not pursuant to the Agreement provisions considered as a Performance, the Client is entitled to purchase them from the Agency.

7.16. CMS development – of administrative systems (see Section 1.8.) – The Agency uses „open source“ administrative systems. Such systems are not a property of the Agency and therefore the Agency does not recommend any interventions into these administrative systems, even though they would comply with legal regulation. After the Performance handover, the Agency provides the Client with a 14-day trial period within which it without any additional charge solves the eventual problems arising from the usage of the administrative system occurred, except of the problems caused by an intervention of the Client or any third party into administrative systems codes. After the lapse of this period the Agency is not responsible for any eventual problems regarding the administrative systems.

7.17. Unless stated otherwise in the Agreement or any written document, the Agency is not obliged to retain and return the documentation provided by the Client.

7.18. The Client is fully responsible for the submitted documentation content accuracy, required for the Subject-matter performance. The Client is further responsible for the documentation not violating the generally applicable regulation, good manners and principles of fair trade and also that by the usage of the Performance will not infringe any rights and/or legitimate interests of third parties (personality rights, the right to protect the reputation of the legal entity, copyrights, trademark rights, etc.). The Client is obliged to and undertakes to, for the case any damage as a result of the documentation supplied to the Agency arises, to reimburse such damage. As a damage is considered also costs of judicial or arbitration proceedings, including costs of legal representation, expert witnesses cost, etc. The Client is fully responsible for the fact the demanded Subject-matter performance (of the documentation submitted by the Client) complies with all requirements laid down by regulation of the Czech Republic, European Union or of jurisdiction of any other country where the Subject-matter will be used. The Agency is not liable for the data accuracy in the documents submitted by the

Client and in respect to this is not obliged to examine whether such do not violate rights of third person and is further not liable for their eventual breach.

7.19. Unless stated in the Agreement otherwise, the Agency shall within the performance of the Subject-matter act independently and is not, regarding the place and manners of its realization, bound by the Client's instructions. Unless stated in the Agreement otherwise, the Agency might delegate the performance of the Subject-matter to another person. In such case the Agency is responsible as if the implementation would be done by itself.

7.20. A contact between the Agency and the Client is conveyed by a project manager. Without a prior consent of the particular project manager, the Client is not entitled to contact other Agency's or of third cooperating party team members. In the event of breach of such obligation the Agency reserves a right to withdraw from the Agreement and is not liable for any damage caused by the Client's manner.

7.21. By signing the Agreement the Client is obliged not to enter into an employment or similar relationship with the Agency's employees for a period of one year after the termination of the Agreement.

8. Defects and resulting claims assertion

8.1. All defects shall be asserted by the Client in written without an undue delay, at the latest within 3 (three) work days after the Performance handover. Non-assertion of the claim in the deadline specified constitutes an irrevocable acceptance and recognition of the fact the Subject-matter performance fully corresponds with the Agreement.

8.2. The claims from defects, the time-limits and procedures regarding their assertion shall be governed by the Commercial Code.

9. Sanctions

9.1. In the event of Client's delay with Price payment or of its part or delay with any other obligation arising from the Agreement and/or these General terms and conditions, the Client is obliged to pay the Agency interest on arrears amounting 0,1% daily of the outstanding amount beginning on the day following the due date until being paid.

9.2. In the event of Client's delay with Price payment or of its part or delay with any other obligation arising from the Agreement and/or these General terms and conditions longer than 7 days, the Client is obliged to pay the Agency a contractual penalty amounting 800 CZK per every dispatched reminder. Such penalty is billed upon the particular reminder dispatch and is due in the time-limit stipulated.

9.3. In the event of Client's delay with Price payment or of its part or delay with any other obligation arising from the Agreement and/or these General terms and conditions longer than 14 (fourteen) calendar days, the Client is obliged to pay the Agency a contractual penalty

amounting 12 % of the outstanding amount, however at least 3.000 CZK within 3 (three) calendar days after its creation.

9.4. The assertion of the interest on arrears and/or of the contractual penalty by the Agency does not relieve the Client from his duty to pay the due amount and does not consume the Agency's right to claim compensation for damage caused. The damages is not limited by the contractual penalty; the contractual penalty and the interest on arrears do not recompense the damages. The Client is obliged to reimburse the Agency regardless of fault. Client's duty to pay the contractual penalty is not limited by circumstances excluding liability.

9.5. The Agency has a right to, regardless of any other Client's determination, to set-off the Client's payments primarily to accessions of the claim, contractual penalties or other claims arising from the right to be reimbursed and then on single claims in order of their maturity.

10. Service of documents

10.1. Service of documents between the Parties is governed by the following principles:

10.1.1. The Client sends documents to the Agency to its address, stated in the Agreement.

10.1.2. The Agency sends documents to the Client to his or her address, stated in the Agreement or provided in written.

10.2. In the event the documents are dispatched by registered post, unless stated otherwise, the day of delivery is considered as:

10.2.1. unless proved otherwise, the third day after the dispatch

10.2.2. the day of Client's receipt of the consignment refusal

10.2.3. in case the consignment is not picked up by the Client (regardless of being or not being notified) the last day of the deposit period

10.2.4. the day in which the Agency was notified the consignment is undeliverable from the reason the Client does not stay on the address stipulated, and the consignment was thereby returned to the sender.

11. Dispute resolution – an arbitration clause

11.1. The Parties agreed on that all disputes arising from obligations from the Agreement and/or from these General terms and conditions will be settled in arbitration held by an arbitrator – a member of Asociace pro rozhodčí řízení, with its registered seat at Vinohradská 89, 120 00 Prague 2, identification number: 266 39 971, pursuant to Act No. 216/1994 Coll., and pursuant to Rules of procedure and Directive on costs, both released by Asociace pro rozhodčí řízení and published on the internet site: www.asociacerozhodci.cz.

12. Liability for damage, damages

12.1. Unless stated otherwise in the Agreement, Parties liability for damage is governed by relevant provisions of the Commercial Code.

12.2. The Agency is liable for the damage caused to the Client by action based of fault, breaching these General terms and conditions and/or the Agreement.

12.3. The Agency is not liable for the damage caused by circumstances excluding liability or by vis major.

13. Other arrangements

13.1. The Parties undertake to keep all knowledge gained within the Agreement implementation confidential, not to abuse the information gained (e.g. the supplied materials and documentation) for improper benefits achievement while negotiating with third persons or implementation of the solution offered by a different person or by yourself.

13.2. The Agency finds within the Agreement implementation information regarding Client's entrepreneurial activities, which is not publicly known and its disclosure to third parties would interfere with Client's legitimate interests, shall undertake to keep all such information confidential. The Client is obliged to mark such information that shall not be disclosed and determine the extent of their publishing.

13.3. The Client agrees so that the Agency would for the duration of the Agreement and after its termination use all information regarding Client's goods and services.

13.4. All patents, copyrights and other rights of a similar nature, related to the materials handed over by the Client to the Agency in order to fulfil the contractual obligations, remain fully intact and are not anyhow transferred to the Agency.

13.5. In the event the Agency provides within the Agreement implementation the Client with any kind of material, document or a different product, then the property rights to them are transferred upon the Price payment.

13.6. An Agreement withdrawal shall be done in written and delivered to the Client. The withdrawal comes into effect upon its delivery.

14. Final provisions

14.1. Legal relations between the Client and the Agency are governed by the General terms and conditions, valid on the day of the Agreement entered into.

14.2. The respective parts of the General terms and conditions and/or Agreement are valid until the mutual rights and obligations between the Client and the Agency are settled.

14.3. Should any provision of these General terms and conditions be invalid, void or unenforceable, then such provision shall not invalidate, render void or make unenforceable the entire General terms and conditions.

14.4. The Client in witness of his or her true and earnest will to accept the obligations arising for them from these General terms and conditions, attaches his or her signature to the Agreement.

14.5. Amendment of rights and obligations arising from the Agreement entered into, as well as his or her assignment of such rights and obligations, are subject to a prior Agency's approval.

15. Validity and effect

15.1. These General terms and conditions come into effect on the date November 1, 2009 and fully replace the General terms and conditions from June 24, 2009.

15.2. Current version of these General terms and conditions is available in the seat of the Agency and is also released on its internet sites: www.evocreative.com.

In Prague on October 29, 2009

On behalf of Evocreative s.r.o.

Fernando Miguel Davila Castillo

Executive director

Evocreative s.r.o.

registered in the Commercial Register kept by the Municipal Court in Prague, Section C, Insert 103584, with its registered seat at Veletržní 841/45, 170 00 Praha 7- Holešovice.

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