

## General supplier terms and conditions Fine Tune Audio

*In the event of any discrepancies, conflicts or ambiguities between this English translation of the Terms and Conditions and the original Dutch version, the Dutch version shall prevail and be considered as the authoritative text. Any interpretation or construction of these Terms and Conditions shall be made with reference to the Dutch version. No rights can be derived from this translated English version.*

### 1. Introduction and general

- 1.1. In these general terms and conditions ("**Terms**"), the following definitions shall apply:
  - a) **Fine Tune Audio:** A creative agency engaged in composing and producing music, sounds and voice-over recordings, registered with the Chamber of Commerce under number KvK 58025057, located at Kerklaan 30 a, 9751 NN in Haren.
  - b) **Supplier:** The party with whom Fine Tune Audio enters into a cooperation agreement, license agreement and/or assignment agreements and who is bound by these Terms through such agreements.
  - c) **Parties:** Fine Tune Audio and Supplier together.
  - d) **Offer:** A written message provided by Fine Tune Audio to Supplier containing:
    - a general description of the requested Products;
    - the price to be paid by Fine Tune Audio to the Supplier; and
    - delivery time.
  - e) **Agreement:** That which has been agreed upon by the Parties and to which these Terms have been declared applicable including in any case the cooperation agreement, license agreement and/or an assignment agreement.
  - f) **Products:** Music, sounds and/or voice recordings composed and produced or to be composed and produced by the Supplier or a third party engaged by the Supplier on behalf of Fine Tune Audio as well as a service to be provided to which the Agreement relates.
  - g) **Re-take:** The re-recording of a voice or instrument that is part of a Product.
  - h) **Buy-out:** A fee that redeems the right to use the Products for a specified period of time and for specified media.
- 1.2. These Terms apply to any legal relationship (such as offers, quotations, deliveries and agreements) between the Parties and remain in full force after termination of the Agreement.
- 1.3. Fine Tune Audio may amend these Terms at any time. The amended Terms will affect all agreements between the Parties to which these Terms were

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applicable, insofar as this is not contrary to reasonableness and fairness. Fine Tune Audio will inform Supplier of any change in these Terms.

- 1.4. Without prejudice to the provisions of Article 1.3. of these Terms , other deviations from these Terms shall apply only if explicitly agreed in writing between the Parties.
- 1.5. Supplier shall not enter into any arrangements with third parties that conflict with the Agreement or these Terms.
- 1.6. The applicability of any general terms and conditions of Supplier is expressly rejected.

### 2. **Formation of Agreement**

- 2.1. An assignment agreement between the Parties, will only be deemed to have been concluded at the moment when the Supplier accepts in writing an Offer still valid by Fine Tune Audio.
- 2.2. Insofar as Supplier already delivers Products, makes them available, performs them or makes preparations for them before the assignment agreement to which they relate has been concluded pursuant to Article 2.1 of these Terms , Supplier therefore does so at its own expense and risk.
- 2.3. An Offer made by Fine Tune Audio is valid for 15 days and may be withdrawn by Fine Tune Audio at any time, unless otherwise specified by Fine Tune Audio.

### 3. **Execution of Agreement and Re-take**

- 3.1. Supplier warrants that the Products are in full compliance with the assignment and with what Fine Tune Audio may reasonably expect under the circumstances, are ready for Fine Tune Audio's specified use and for its reasonably foreseeable purpose, comply in all respects with applicable laws and regulations, are safe and free of defects.
- 3.2. If the Products contain audio files and these are not produced by Fine Tune Audio but by the Supplier itself or third parties engaged by the Supplier, the Supplier will in any case ensure in the context of the execution of the assignment that:
  - the briefing provided by Fine Tune Audio or its client is complied with to the best of its ability;
  - the Products are recorded in 48 kHz and 24 bit (or higher) unless Fine Tune Audio's client indicates otherwise;
  - no distortion occurs due to, for example, clipping of the audio recording;

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- side noises such as breathing and smacking sounds have been removed from the recording as much as possible; and
  - voice-overs are exported in mono and in 48 kHz and 24 bit.
- 3.3. If the Products do not have the reasonably expected quality, for example because the briefing has not been met with sufficient accuracy, Supplier will cooperate in a free Re-take. In this case Fine Tune Audio will determine a new delivery date in consultation with the Supplier. The Supplier will not be obliged to carry out a free re-take if the dissatisfaction of Fine Tune Audio or its client consists of matters which the Supplier could not reasonably take into account during the performance of the assignment, such as errors in the script supplied by Fine Tune Audio or its client.
- 3.4. In the context of the performance of the assignment, the Supplier or third parties engaged by the Supplier shall not seek or maintain contact with Fine Tune Audio's clients, which is to be understood to include the end user of the Products, without Fine Tune Audio's written consent.
- 3.5. In the event that an assignment agreement consists of multiple parts, Fine Tune Audio may require the Supplier to suspend performance until Fine Tune Audio's client has approved one or more Products.

### 4. **Change in the Agreement**

- 4.1. Fine Tune Audio is authorized at all times to change the scope and/or quality of the Products to be delivered under an assignment agreement.
- 4.2. Following a change as referred to in Article 4.1 of these Terms, Fine Tune Audio may proportionately increase or decrease the agreed fee.
- 4.3. If, in the opinion of the Supplier, the change in the assignment agreement affects the time of delivery of Products, the Supplier will notify Fine Tune Audio immediately.
- 4.4. Additional deliveries or services by/on behalf of the Supplier that are necessary to perform in accordance with the engagement agreement and should have been foreseen by the Supplier at the time the assignment agreement was accepted shall not result in an adjustment of the agreed price or rates.

### 5. **Delivery time and delivery**

- 5.1. Delivery deadlines stated in the assignment agreement are final. If no term has been agreed upon, Fine Tune Audio will be entitled to set the Supplier a reasonable deadline in writing, which will then be binding on the Supplier.
- 5.2. Fine Tune Audio will be entitled to postpone the delivery date, in which case the Supplier will keep the goods available to Fine Tune Audio on call.

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- 5.3. If there is a threat of the agreed delivery time being exceeded, the Supplier will notify Fine Tune Audio of this as soon as possible. If a delivery time is exceeded, the Supplier will be required to compensate Fine Tune Audio for any loss suffered as a result, without prejudice to Fine Tune Audio's right to dissolve the assignment agreement.
- 5.4. The delivery of the Products and thus the completion of the assignment is done by means of the electronic delivery of the Product as an audio file. The Product will be sent via a download link by e-mail to Fine Tune Audio or, if so agreed, to Fine Tune Audio's client.
- 5.5. Shipment of Products shall be at Supplier's expense and risk.

### **6. Rates and billing**

- 6.1. All agreed amounts are excluding sales tax (VAT) but including administration, transportation, travel, shipping and other costs.
- 6.2. Supplier will invoice Fine Tune Audio for the agreed fee and any expenses eligible for separate reimbursement within three months of the expiration of the agreed delivery date, under penalty of forfeiting the right to invoice and be reimbursed.
- 6.3. Fine Tune Audio will pay Supplier's invoices within 30 days of receipt. Exceeding the term of payment because Fine Tune Audio disputes the correctness of an invoice or because Fine Tune Audio considers that the Supplier has failed to fulfill its obligation under an Agreement concluded between the Parties does not entitle the Supplier to suspend its obligations under an Agreement concluded between the Parties or to dissolve the Agreement.

### **7. Non-competition**

- 7.1. Supplier or third parties engaged by Supplier are not entitled to approach clients of Fine Tune Audio or end users of the Products or to perform other work for them in any way whatsoever (directly or indirectly, for payment or free of charge) without Fine Tune Audio's prior written consent. This restriction will apply for a period of five years, calculated from the conclusion of the Agreement, irrespective of whether or not an order is completed. If the Supplier acts in violation of the foregoing, the Supplier will owe Fine Tune Audio compensation consisting of EUR 10,000 or, if greater, five times the agreed-upon fee for the Products under the assignment agreement in which this agreement is violated.
- 7.2. During the term of the Agreement and for six months after the expiration of the Agreement, the Supplier is not permitted to employ Fine Tune Audio's employees and those seconded by Fine Tune Audio or otherwise offer work without Fine Tune Audio's written consent.

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### **8. Intellectual property rights**

- 8.1. If a separate license agreement has been entered into between the Parties, Article 8 of these Terms is to be regarded as a supplement where necessary, but the text of the license agreement shall take precedence.
  - 8.2. Supplier certifies that the performance of the Agreement will not affect any intellectual property rights or any other rights of third parties with respect to the Products provided by or on behalf of Supplier.
  - 8.3. Fine Tune Audio will at all times retain intellectual property rights that were already vested in it at the time of entering into the Agreement.
- 8.4. If, in the context of the execution of a contract of assignment, a new right of intellectual property arises or can be established (e.g. by registration), Fine Tune Audio will hold the rights thereto or, in the context of these rights, Supplier will provide a license for use free of charge to Fine Tune Audio under which with regard to these rights, the Supplier grants Fine Tune Audio permission to use all rights resulting from these rights, including the power to undertake any form of publication or reproduction - such as recording, reproduction, selling, renting, lending, delivering or otherwise circulating the recording, broadcasting or making it available to the public - as well as receiving income, royalties and license fees from the exploitation of the works in question.
- 8.5. Supplier hereby waives any personality rights arising from the execution of an assignment agreement between the Parties.

### **9. Liability and indemnity**

- 9.1. If the Supplier fails to fulfill any obligation under the Agreement or under these Terms, it will be liable for any loss suffered by Fine Tune Audio.
- 9.2. The Supplier indemnifies Fine Tune Audio against all claims by third parties, including clients of Fine Tune Audio and end users of the Products, whose intellectual property rights or other rights are infringed as a result of the use of Products provided by or on behalf of the Supplier and against claims that otherwise originate in the manner in which the Supplier has performed an Agreement.

### **10. Dissolution of Agreement**

- 10.1. Fine Tune Audio will be authorized to terminate the Agreement in whole or in part with immediate effect if and as soon as the Supplier becomes bankrupt, files for bankruptcy, applies for a moratorium or otherwise loses the authority to dispose of its assets or parts thereof.
- 10.2. Fine Tune Audio is further authorized to terminate the Agreement and any other agreements with the Supplier in whole or in part if the Supplier fails to

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fulfill any obligation under the Agreement or any other agreement between the Parties or under the Terms forming part thereof without judicial intervention.

- 10.3. In the event of dissolution as referred to in 10.1 and 10.2, Fine Tune Audio will no longer owe the Supplier the agreed compensation on a pro rata basis.
- 10.4. In the event of interim termination of the Agreement, the Supplier shall be obliged, if requested, to cooperate fully in transferring the performance of the Agreement to Fine Tune Audio or a new supplier.

### 11. **Privacy and confidentiality**

- 11.1. Fine Tune Audio will only process personal data of Supplier or third parties engaged by Supplier insofar as this is in line with its privacy statement and the General Data Protection Regulation. For more information, please refer to Fine Tune Audio's privacy statement located in the footer of the website [www.finetune.audio](http://www.finetune.audio).
- 11.2. Supplier will keep secret all data originating from Fine Tune Audio that can reasonably be suspected to be confidential - such as data and information serving for the preparation and execution of the Agreement other than the Products themselves, such as, among other things, instructions, scripts or other texts, visual material, audio fragments (such as samples and music fragments) or information relating to Fine Tune Audio's working methods - and will not disclose or make available to third parties.
- 11.3. To the extent applicable, Supplier shall only be entitled to disclose information as referred to in Article 11.2. to its personnel or third parties engaged by it to the extent necessary for the performance of the assignment. Supplier warrants that its personnel or third parties engaged by it will comply with the obligation of confidentiality as contained in these Terms.
- 11.4. Supplier is not obliged to maintain the confidentiality of the information in question if and to the extent that the information:
  - is publicly known, unless it results from a breach by Supplier of its obligations under these Terms;
  - has been made public by Fine Tune Audio thereby losing the confidential nature of the information;
  - is publicly disclosed by a source who was authorized to disclose that information;
  - has been developed by Supplier independently of Fine Tune Audio, without violation of these Terms or other provisions agreed between the Parties to Fine Tune Audio;
  - was allowed to be released according to Fine Tune Audio and Fine Tune Audio has given the Supplier written permission to do so; or

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- was required to be disclosed by law or court order.

- 11.5. In the event Supplier is subpoenaed, receives an official request or is otherwise required by a judicial, administrative, regulatory or legislative body to disclose the information in question, Supplier shall notify Fine Tune Audio as soon as possible so that the Parties may jointly attempt to prevent the disclosure of the information in question or take other appropriate measures against the disclosure of the information.
- 11.6. If it is not possible to take a measure as referred to in Article 11.5 of these Terms, Supplier may disclose only that part of the information which it is legally required to disclose, provided that, to the extent permitted by law, Supplier indicates in writing to Fine Tune Audio which information is to be disclosed. In doing so, the parties will consult as much as possible on the timing and content of the information to be disclosed.
- 11.7. In the event of violation of the provisions of this article, Supplier will forfeit to Fine Tune Audio an immediately payable penalty, not subject to setoff, of EUR 10,000 for each violation, without prejudice to Fine Tune Audio's right to demand compliance and, in the event and to the extent that its losses exceed the penalty due, to claim compensation from Supplier for these losses in addition.

## 12. Other provisions

- 12.1. The legal relationship between Fine Tune Audio and Supplier never implies an exclusive right of Supplier to a subsequent Offer, nor an obligation for Fine Tune Audio to provide a subsequent Offer to Supplier.
- 12.2. The Supplier is not entitled to assign its rights or obligations to Fine Tune Audio to third parties.
- 12.3. The failure of Fine Tune Audio to directly enforce any right under the Agreement or these Terms shall never imply a waiver of right by Fine Tune Audio. Such a waiver of right by Fine Tune Audio will only occur in the event of an unequivocal written statement to that effect by Fine Tune Audio.
- 12.4. If any passage or provision of these Terms or the Agreement is null and void or is nullified, the remaining provisions shall remain in full force and effect. An arrangement will be made for the void and/or voided passages or provisions that most closely approximates the intention of the Parties.
- 12.5. These Terms and the Agreement are governed by Dutch law. The applicability of the Vienna Sales Convention is excluded.
- 12.6. Any disputes shall, unless otherwise provided by law, be submitted exclusively to the competent court in Groningen.