

Terms Of Use

1. GENERAL	2
1.1 Applicability	2
1.2 Definitions	2
1.3 Confirmation	4
1.4 Offers	4
1.5 Agreements	4
1.6 Co-operation/Information Requirements For Customer	5
1.7 Confidentiality	6
1.8 Liability	6
1.9 Transfer	7
1.10 Force Majeure	7
1.11 Nullity	7
2. ACTIVITIES GENERAL	9
2.1 Additional Work/Custom Work	9
2.2 Activities	9
3. CONTENT SERVICE	10
3.1 User Rights Content Service	10
3.2 Content Service General	10
3.3 Responsibilities Shoot My Food Content Service	11
3.4 Browser	13
3.5 Use of Identification Codes	13
3.6 Changes in the Content Service	14
3.7 Back-ups	14
3.8 Content Private	14
3.9 Requirements Customer Content Service	15
3.10 Privacy Information	15
3.11 Code of Conduct	16
4. DELIVERY	18
4.1 (Delivery) Dates	18
5. PRICES/PAYMENTS	19
5.1 Prices and Payments	19
5.2 Price Changes	20
6. INTELLECTUAL PROPERTY RIGHTS	21
6.1 Rights of Customer and Shoot My Food	21
6.2 Indemnification	21

1. GENERAL

1.1 Applicability

1.1.1

These conditions are applicable to all proposals and/or deliveries made by Shoot My Food and agreements and/or other legal relationships between Shoot My Food and Customer, the resulting provisions and related activities regardless of whether or not they are based on a verbal, written and/or electronic agreement, unless otherwise agreed upon in writing.

1.1.2

Purchase conditions or any other conditions used by Customer will not be applicable.. The applicability of purchase conditions or any other conditions from Customer or from third parties on behalf of Customer is therefore expressly rejected by Shoot My Food, unless explicitly accepted in writing by Shoot My Food.

1.1.3

The General Conditions Shoot My Food are filed with the Chamber of Commerce in Wageningen under number 09155371

1.1.4

Shoot My Food reserves the right to make alterations and/or additions to the General Conditions Shoot My Food. The modified General Conditions Shoot My Food will become applicable, unless objections against modifications are made in writing within 30 (thirty) days of the notification date of the change.

1.1.5

Changes in and additions to the General Conditions Shoot My Food and/or agreements made between Shoot My Food and Customer are only valid when agreed to by Shoot My Food in writing.

1.1.6

If Customer consists of more than one legal entity or organization, each will be responsible for the entire fulfillment of the obligations that may flow forth from the agreement with Shoot My Food.

1.1.7

The headings above the articles of these conditions are only 1.1intended to increase the legibility of this document. The content and meaning of an article placed under a particular heading is, therefore, not limited to the meaning and content of the heading.

1.2 Definitions

1.2.1

In the General Conditions Shoot My Food the following words and expressions are used with a capital. Any of the following words and expressions shown in the singular shall have the same meaning when used in the plural and vice-versa.

1.2.2

Back-up:

Spare copies of digital data and/or information.

1.2.3

Content:

Content Private, Content Professional and/or Content Public.

1.2.4

Content Private:

Photo's and/or other images, soundtracks and text digitally recorded or recorded in another manner and delivered and/or placed by Customer.

1.2.5

Content Professional:

Photo's and/or other images, soundtracks and text digitally recorded or recorded in another manner, directly produced by a third party and delivered and/or placed by Shoot My Food.

1.2.6

Content Public:

Photo's and/or other images, soundtracks and text digitally recorded or recorded in another manner, directly produced by Shoot My Food and delivered and/or placed by Shoot My Food.

1.2.7

Content Service:

The direct and/or indirect (through third parties) provision of Content through a web application (a so called ASP (Application Service Provider)-application.

1.2.8

Customer:

Anyone who requests and orders the delivery of Products.

1.2.9

Error:

Error(s) means the failure to fulfill the functional specifications set down in writing by Shoot My Food and, in cases of developing custom work Shoot My Food Products, the functional specifications expressly agreed upon in writing.

1.2.10

Fair Use:

The reasonable use by Customer of the Products.

1.2.11

Identification Codes:

Usernames, passwords, address codes and/or other codes.

1.2.12

Maintenance:

The repair of Errors in the Shoot My Food Products and the provision of updates of the Products delivered on a regular basis at the discretion of Shoot My Food.

1.2.13

Shoot My Food:

Shoot My Food B.V. and its rightful successors or affiliated organizations and partners that will enter into an agreement with Customer and has declared the General Conditions Shoot My Food applicable.

1.2.14

Shoot My Food Products:

All products, services and Content Public provided by Shoot My Food and the resulting provisions and related activities, which do not originate from third parties and whose intellectual property rights, industrial property rights and other rights are held by Shoot My Food.

1.2.15

Products:

All Shoot My Food Products and/or Third Party Products provided by Shoot My Food, the resulting provisions and related activities. Content Service is considered a Product.

1.2.16

Third Party General Conditions:

Third Party General Conditions are amongst others understood as the delivery conditions, license conditions, warranty conditions or other conditions maintained by a third party.

1.2.17

Third Party Products:

All products, services and Content Professional provided by Shoot My Food, the resulting provisions and related activities, which originate from third parties and whose intellectual property rights, industrial property rights and other rights are not held by Shoot My Food.

1.2.18

Workdays:

Normal Dutch working hours (8.30-17.00) and days (Monday through Friday) with the exception of public holidays.

1.3 Confirmation

1.3.1

Verbal agreements, assignments or other expressions of whatever nature by employees of Shoot My Food are only valid and binding when they have been confirmed in writing by authorized representatives of Shoot My Food.

1.4 Offers

1.4.1

All offers made are without engagement, unless the offer explicitly indicates otherwise in writing.

1.4.2

Offers are based on the data, information or requirements made known by Customer as set out in article 1.6.

1.5 Agreements

1.5.1

If a proposal, contract or other similar legally binding document is sent by Shoot My Food to Customer and Customer fails to return this document, signed, to Shoot My Food, Customer accepts by payment of compensation to Shoot My Food the contents of this document and the General Conditions Shoot My Food.

1.5.2

An agreement between Shoot My Food and Customer, for which no further contract and/or term has been agreed, has a term of 3 (three) years if the delivery concerns a Product for which a periodic fee is charged. If this agreement is not terminated or not terminated in time, it is extended repeatedly in increments of 3 (three) years.

1.5.3

Termination of the agreement as described in article 1.5.2 occurs by means of a registered letter, which must be received by the other party no later than 6 (six) full calendar months prior to the expiration date of the agreement.

1.5.4

Each party has the right to terminate the agreement wholly or partially without judicial intervention by means of a signed registered letter. This can be done if, after notifying the breaching party in writing of a failure to fulfill their obligations, they then fail to meet the aforesaid obligations within a reasonable period of time.

1.5.5

Each party has the right to immediately terminate the agreement wholly or partially without judicial intervention through means of a non-judicial declaration and/or withdraw and/or annul an offer if the other Party is a person and becomes deceased, if the other party submits a legal request for debt restructuring, if bankruptcy or suspension of payment has been filed for the other party, if the other party is in a state of bankruptcy or suspension of payment has been granted or if the other party's company is liquidated or ended for any reason other than reconstruction or company merger.

1.5.6

After the agreement has been ended, for any reason, parties can no longer obtain any of the rights provided by the agreement, leaving unhindered the existence of the obligations of both parties which by their nature continue automatically after the conclusion of their agreement.

1.6 Co-operation/Information Requirements For Customer

1.6.1

All assignments are carried out by Shoot My Food on the basis of data, information, requests and/or requirements made known to Shoot My Food by Customer.

1.6.2

Customer shall provide all necessary cooperation to Shoot My Food and shall make known in time all useful and necessary data and/or other information required for an adequate execution of the agreement. Customer shall ensure the accuracy of this data and/or other information.

1.6.3

If changes and/or new facts arise in regard to data, information, requests and/or requirements provided earlier, Shoot My Food will always be fully justified to adjust the agreement to these new circumstances or to dissolve or annul the agreement.

1.7 Confidentiality

1.7.1

Shoot My Food and Customer mutually commit themselves to the confidentiality of all data and information concerning each other's organization, clients, files and Products, of which they become aware while working for each other or for Customer's clients. Data and information may only be used in order to carry out the agreement between parties.

1.8 Liability

1.8.1

Shoot My Food's total liability due to culpable failure to fulfill the agreement, shall be limited, in accordance with articles 1.8.2 compensation for direct damage and to a maximum of the amount of the price stipulated in the agreement (excluding VAT) to a maximum of Euro 50.000,- (fifty thousand), whereby a sequence of events is regarded as one event.

1.8.2

If the agreement also includes an agreement over time with a term of more than 1 (one) year and Shoot My Food's liability flows forth from the agreement over time, the stipulated price will be calculated on the basis of the total amount (excluding VAT) as actually paid by Customer to Shoot My Food on the basis of the agreement over time for 1 (one) year (this being the year in which the damage occurred) to a maximum of Euro 50.000,- (fifty thousand).

1.8.3

Direct damage is exclusively understood as:

- a) The reasonable costs made in determining the cause and the extent of the damage;
- b) The reasonable costs incurred in prevention or limitation of damage, to the degree that Customer can demonstrate that these costs have led to the limitation of the damage.

1.8.4

Shoot My Food's liability for indirect damage, including consequential damage, loss of profit, loss of savings, mutilated and/or lost data, delays, losses, damage as a result of a failure of Customer to provide the required information or assistance, damage through corporate inactivity and/or claims from third parties against Customer, is expressly rejected.

1.8.5

With the exception of the case named in article 1.8.1, Shoot My Food has no liability for damage compensation regardless of what an action towards compensation could be based upon.

1.8.6

Shoot My Food's liability exists solely when Customer immediately and appropriately notifies Shoot My Food of the deficiency in writing, proposing therein a reasonable time period for correction of the deficiency and Shoot My Food then culpably fails to meet the aforesaid obligations. The notification of deficiency ought to be as detailed a description of the deficiency as possible so that Shoot My Food is able to react adequately.

1.8.7

The condition for the existence of any right to compensation is always that Customer notifies Shoot My Food in writing within 60 (sixty) days after the damage came into existence, by registered mail, and takes the necessary measures to limit the damage as much as possible.

1.8.8

Customer indemnifies Shoot My Food from all liability regarding third parties due to allegations as a consequence of deficiency in a product, system or service provided by Customer to third parties that consisted of a delivery made by Shoot My Food.

1.8.9

The liability of Shoot My Food for damage caused by Third Party Products, regardless of its nature, which Shoot My Food has delivered to Customer will be limited in every aspect to the liability the supplier of the Third Party Product in question has towards Shoot My Food. If possible Shoot My Food will transfer its rights for damage compensation from the supplier of the Third Party Product in question to Customer.

1.9 Transfer

1.9.1

The agreement between Shoot My Food and Customer and the rights and obligations, which flow forth from this agreement, cannot be transferred to a third party by Customer without the prior written consent from the other party.

1.10 Force Majeure

1.10.1

Neither party is obligated to fulfill any obligation if they are prevented from doing so as a result of circumstances, which can be considered beyond their fault, and by law, legal act, or generally accepted practices cannot be held accountable for.

1.10.2

When force majeure is of a temporary nature, the party appealing to force majeure has the right to suspend its commitments until force majeure has ceased to exist without being obliged to any form of damage compensation.

1.10.3

Shoot My Food reserves the right, in the case of force majeure, to collect payment for obligations already fulfilled before force majeure was known.

1.10.4

In the event that force majeure of either party surpasses a three month period, either party has the right to terminate the agreement without being obliged to any form of damage compensation regarding such termination.

1.11 Nullity

1.11.1

If one or more terms (or part of a term) of the agreement are nullified, declared to be nullified, annihilaable or have lost their validity in another way, the other terms (or part of the term in question) of this agreement will remain in force undiminished.

1.11.2

In regard to terms (or part of the term) that are nullified, declared to be nullified, annihilaable or lose their validity in another way, parties shall consult with each other to try to reach a substitute arrangement with in which the parties shall strive for the maintenance of this agreement (or the remainder of the term in question) in its totality.

1.11.3

If the SGOA declares itself unauthorized or if parties mutually agree to such, disagreements will be placed before a qualified court in Amsterdam, The Netherlands.

1.11.4

The foregoing shall not prevent any party from taking legal procedures, prior to turning to the SGOA, for purposes of sequestration and/or garnish in order to ensue security for its existing rights.

2. ACTIVITIES GENERAL

2.1 Additional Work/Custom Work

2.1.1

If in the opinion of Shoot My Food, a change request by Customer is in fact a request for additional- and/or custom work, Shoot My Food will notify Customer thereof prior to performing additional- and/or custom work. Upon request by Customer, the notification will be followed by a specification of the price and additional conditions. Customer will decide as soon as possible whether to carry out the additional- and/or custom work.

2.1.2

It will be assumed that Customer has agreed to the performance of additional- and/or custom work and the connected costs, if Customer has allowed additional- and/or custom work to take place without raising objections in writing prior to the commencement of additional- and/or custom work.

2.2 Activities

2.2.1

Any activities will take place without interruption on Workdays and under normal working conditions.

2.2.2

Activities that are performed outside of Workdays are considered as overtime. The applicable rate will be increased with 50% for overtime after or before Workdays. The applicable rate will be increased with 100% for overtime on weekends and public holidays.

2.2.3

If it is agreed upon that activities will take place in phases Shoot My Food will be entitled to postpone activities that belong to the next phase until Customer has accepted in writing activities performed in the previous phase.

2.2.4

Only if agreed upon explicitly in writing will Shoot My Food be obligated when performing activities to follow timely and reasonable instructions given. Shoot My Food is not obligated to follow instructions that will alter the content or scope of the agreed upon activities.

2.2.5

Shoot My Food is entitled, without the explicit consent of Customer, to make use of third parties when performing activities.

3. CONTENT SERVICE

3.1 User Rights Content Service

3.1.1

Customer is granted the non exclusive right to use the Content Service and the Content Public and/or Content Professional.

3.1.2

User rights are limited exclusively to own internal use of the Content Service and the Content Public and/or Content Professional for the agreed upon number of users. Customer is not entitled to make Content Public and/or Content Professional publicly available outside Customer's organization.

3.1.3

User rights on the Content Service and the Content Public and/or Content Professional cannot be transferred to any third party (third parties also include holding-, sister- and/or subsidiary companies).

3.1.4

The user rights shall go into effect after Customer has made the required payments and fulfilled its other obligations.

3.1.5

Shoot My Food is entitled to incorporate technical limitations and control mechanisms in the Content Service in order to prevent and/or verify that the actual number of users does not surpass the agreed upon number of users.

3.2 Content Service General

3.2.1

The Content Service will only take place at a location approved by Shoot My Food and on the equipment approved by Shoot My Food.

3.2.2

Shoot My Food may at its sole discretion provide Customer with the possibility to make enhancements, additions and/or changes in the Content Service. If this possibility is offered by Shoot My Food, Customer will be responsible and liable for all enhancements, additions and/or other changes made and consequences that may flow forth there from. Customer is never entitled to make enhancements, additions and/or other changes in the Content.

3.2.3

With regard to the entrance and use of the Content Service, Customer has equipment and software directly or indirectly available which comply to the standards and/or requirements set by Shoot My Food of which Customer has been notified directly or indirectly.

3.2.4

Customer is required to follow instructions given by Shoot My Food regarding the Content Service.

3.2.5

Shoot My Food is entitled to view log files and the like for purposes of analyzing the use of the Content Service. The results of such an analysis will not be made available to third parties (third parties do not include holding- sister and/or subsidiary companies of Shoot My Food). This does not apply to figures and data with regard to the use of the Content Service which are not directly traceable to the use by Customer.

3.2.6

In the event Customer signals Errors, this will immediately have to be reported to Shoot My Food. After Customer has notified Shoot My Food of the Error, Shoot My Food will take the necessary steps, which will lead or could lead to a solution.

3.2.7

The costs for resolving the malfunction are for the account of Customer if it appears that the malfunction is the result of Customer's act or failure to act in accordance with the agreement.

3.2.8

Shoot My Food will inform Customer prior to the commencement of intended Maintenance with regard to the Content Service, if Maintenance will lead to problems with regard to gaining access to the Content Service or the non-availability of the Content Service. In this case Maintenance will take place from 00.00 until 06.00 hours (CET). Other Maintenance will take place during Workdays.

3.3 Responsibilities Shoot My Food Content Service

3.3.1

Shoot My Food will take care of the provision of the Content Service. Shoot My Food will on a best effort basis and where influential by Shoot My Food strive to an availability of the Content Service of:

- a) 98% from Monday through Friday during 06.00 and 24.00 hours (CET);
- b) 70% from Monday through Friday during 24.00 and 06.00 hours (CET);
- c) 70% from Saturday through Sunday during 00.00 and 24.00 hours (CET).

3.3.2

The percentages mentioned in article 3.3.1 are measured over a calendar year. The time for Maintenance is not included.

3.3.3

Shoot My Food does not guarantee, amongst others, that the telephone lines, the Internet and/or other networks will offer optimal access in the event Shoot My Food depends on third party telecommunication providers for the use and/or provision of the connection.

3.3.4

Shoot My Food does not have any obligations with regard to availability, reliability and/or other performance requirements with regard to the telephone lines, the Internet and/or other networks and the resulting provisions.

3.3.5

Shoot My Food will strive to provide all useful and necessary measures to ensure adequate operability and continuity of the Content Service. Shoot My Food makes use of the in the market most recent and most used virus protection programs.

3.3.6

Shoot My Food will strive, in accordance with the most current technology available, to provide adequate physical and logical security measures against unauthorized access by third parties to

shoot my food

computer systems or computer programs used by Shoot My Food and/or stored Content, in light of the provisions provided for under the agreement.

3.4 Browser

3.4.1

The Content Service is accessible by Customer through a browser. The Content Service has been optimized for the browsers as indicated by Shoot My Food. The browsers for which the Content Service has been optimized at the moment of entering into the agreement will be made know by Shoot My Food.

3.4.2

Shoot My Food is not obligated to keep access to the Content Service optimal through the browsers as mentioned in article 3.4.1. Shoot My Food is entitled, without any form of (damage)compensation being required, to make changes in the Content Service which may influence the browser used by Customer and/or advised by Shoot My Food.

3.4.3

In the event that the situation as described in article 3.4.2 takes place, Shoot My Food will use all reasonable endeavors to enable Customer to make a transition to a different browser. The costs incurred by Customer in doing so are for the account of Customer.

3.5 Use of Identification Codes

3.5.1

Shoot My Food will make Identification Codes solely available to Customer for the use of Products. Customer will use these Identification Codes with care. Customer will notify Shoot My Food in the event of loss, theft and/or other forms of unauthorized use, in order to enable parties to take the proper actions.

3.5.2

Customer carries all responsibility, liability and costs related to the use of Identification Codes used and/or distributed by Customer. In no event will Shoot My Food be liable for the misuse and/or unauthorized use of Identification Codes.

3.5.3

If there is a reasonable suspicion of misuse or unauthorized use of Identification Codes, Shoot My Food can provide Customer with the necessary instructions, which must be carried out

3.5.4

If it is determined that misuse has been made of Identification Codes or if Customer ignores instructions given as set out in article 3.5.3, Customer will be immediately in breach.

3.6 Changes in the Content Service

3.6.1

Shoot My Food is entitled, after notification within a reasonable term and without any compensation to Customer, to make adjustments and/or changes in the Content Service offered such as but not limited to:

a) entrance procedures, such as:

- 1) procedures regarding operational rules;
- 2) security procedures.

b) changes in a third party provider/supplier, location, hardware, software and other facilities necessary for the provision of the Content Service.

3.6.2

If the changes made have a significant negative impact on Customer's business or the functionality of the Content Service, Customer may, after providing relevant proof of deterioration in writing, request Shoot My Food in writing to provide an alternative. If Shoot My Food then fails to provide an alternative, Customer will have the right to terminate the use of the Content Service, without any damage compensation required by Shoot My Food and/or third party or restitution of monies paid.

3.7 Back-ups

3.7.1

Where possible Customer will be responsible for making the required Back-ups on time. Shoot My Food will upon request inform Customer of the procedures and security measures necessary regarding data and the realization of Back-ups.

3.7.2

If it is not possible for Customer to make Back-ups (and it is possible for Shoot My Food to make Back-ups) or if it is agreed upon that Shoot My Food will provide partially or entirely for the provision of Back-ups, Shoot My Food will make the Back-ups. In no event, will Shoot My Food be liable for these Back-ups for so far as but not limited to the complete or partial loss of these Back-ups and/or errors in the Back-ups.

3.8 Content Private

3.8.1

Shoot My Food does not control or have any insight in Content Private. Shoot My Food does not give any warranties with regard to Content Private such as but not limited to reliability and completeness.

3.8.2

Customer is responsible for Content Private. Where applicable the Code of Conduct as set out in article 3.11 will apply to Customer and its users.

3.8.3

Customer indemnifies and will keep Shoot My Food free from any damage compensation regarding any claim, accusation or court procedure from a third party with regard to Content Private and/or other information originating from Customer.

3.8.4

In deviation from that which has been agreed upon in article 6, Content Private will remain the (intellectual) property of Customer.

3.8.5

After termination of the agreement Shoot My Food will no longer be required to preserve Content Private.

3.8.6

Shoot My Food will offer cooperation in transferring Content Private to another application as requested by Customer. Shoot My Food does not warrant that the available Content Private during the agreement and/or after the agreement can be transferred to another application. Customer is fully responsible for the reliability and completeness of Content Private from the moment of transfer of the Content Private to another application.

3.8.7

All costs connected to the transfer of Content Private at the request of Customer to another application will be fully for the account of Customer.

3.9 Requirements Customer Content Service

3.9.1

Customer will immediately inform Shoot My Food in writing regarding changes that are relevant for the proper execution of the Content Service.

3.9.2

Customer will follow the instructions given by Shoot My Food regarding Fair Use. If Customer fails to follow the instructions given by Shoot My Food, Shoot My Food will be entitled through technical means to reduce the overload or in the case of a continuous overload to stop the provision of the Content Service to Customer. Shoot My Food will never be liable for damage of whatever nature that is incurred by Customer and/or third parties as a result of the measures undertaken by Shoot My Food.

3.10 Privacy Information

3.10.1

Customer is responsible for protecting (privacy) information, which is sent and/or processed by the equipment and/or programs of Shoot My Food on behalf of Customer.

3.10.2

Customer will indemnify Shoot My Food against any allegation as a result of the violation of any person's privacy.

3.10.3

Where Customer is authorized, Customer agrees with the registration of (privacy) information of users in the privacy registration of Shoot My Food for administrative and management purposes. The privacy registration will contain, amongst others, Identification Codes and will only be accessible for Shoot My Food. This information will not be provided to third parties unless Shoot My Food is obligated to do so on the basis of a court order and in the case Shoot My Food has hired third parties in accordance with article 2.2.5.

3.10.4

In exception to what has been previously stated in article 3.10.1, Shoot My Food will be responsible for the protection of privacy related information of which its use is necessary by Shoot My Food for the proper performance of its obligations under the agreement and will indemnify Customer against allegations of private individuals for violation of their privacy as a result of an act or failure to act of Shoot My Food.

3.11 Code of Conduct

3.11.1

Customer will make use of the Content Service and/or other facilities offered in a responsible manner. It is prohibited to use the Content Service and/or other facilities offered in a manner that will result in:

- a) damage in the system of Shoot My Food and/or third parties;
- b) interference with its use

3.11.2

Customer will ensure that such damage and/or interference will not be the result of miss configuration on Customer's part.

3.11.3

It is not permitted to use the Content Service and/or facilities offered for activities that are illegal and/or in violation of the agreement. The foregoing includes amongst others the following activities:

- a) the violation of a third parties rights or making it possible to violate third party rights, such as but not limited to intellectual property rights and privacy rights;
- b) the noncompliance to law and other applicable regulations;
- c) spamming (un-requested distribution (or creating the possibility for third parties) of advertisement and/or other messages);
- d) storage/distribution of (child) pornography;
- e) sexual intimidation, racial prejudice and/or the harassment of individuals in any other manner;
- f) distribution or the making available to third parties of obscene, insulting and tormenting material and/or other material of similar nature;
- g) threats;
- h) storage and distribution of viruses, worms and/or other destructive activities;
- i) unauthorized access (hacking) of accounts, systems and/or networks of third parties and/or Shoot My Food and/or the performance or non-performance that make hacking possible.

3.11.4

Shoot My Food reserves the right, at its own discretion, if forced by law or a court order and/or a third party informs Shoot My Food and/or a suspicion exists that through the Content Service a violation is made of the rights of a third party, there is a breach of the General Conditions Shoot My Food and/or the agreement and the resulting obligations in question have not been met wholly or partially, to stop access to the Content Service and/or other facilities offered, to remove the information in question and/or suspend its other obligations, this until the obligations have been met.

3.11.5

Shoot My Food and/or third parties will never be liable for damage of whatever nature suffered by Customer or third parties for measures taken by and/or on behalf of Shoot My Food on the basis of article 3.11.4. Payment obligations will remain in effect during the time period in which measures are undertaken by and/or on behalf of Shoot My Food on the basis of article 3.11.4.



3.11.6

If the actions and/or failure to act of Customer justifies this and/or the actions and/or failure to act of Customer continues regardless of the measures under taken by Shoot My Food, as set out in article 3.11.4, Shoot My Food will be entitled in accordance with article 1.5.4 to terminate the agreement, without any damage compensation or restitution of monies paid being required.

4. DELIVERY

4.1 (Delivery) Dates

4.1.1

All (delivery) dates which may be named by and may be applicable to Shoot My Food are determined to the best of Shoot My Food's knowledge on the basis of information made known to Shoot My Food and will be taken into consideration as much as possible.

4.1.2

(Delivery) dates shall therefore not be considered to be absolute (delivery) dates within which must be delivered, but a time period within which Shoot My Food shall strive with best efforts to deliver the agreed upon items. If it is not possible to keep to the (delivery) date, then Shoot My Food and Customer will consult with each other to agree on a substitute (delivery) date.

4.1.3

Exceeding a given (delivery) date which may be applicable never constitutes an attributable shortcoming by Shoot My Food. Shoot My Food does not accept liability under any circumstances in cases where the (delivery) date may be exceeded.

5. PRICES/PAYMENTS

5.1 Prices and Payments

5.1.1

All prices exclude VAT and other levies imposed by the government. The amounts invoiced to Customer will include applicable VAT and other levies possibly imposed by the government.

5.1.2

Shoot My Food will invoice the amount, appropriately itemized, owed by Customer on a monthly basis to Customer. Customer will pay all amounts indebted within 30 (thirty) days of the invoice date. These payments will not be subject to compensation or deduction other than when permitted by law. The following payment schedule will apply to one-off payments: a) 50% when entering into the agreement; b) 50% upon delivery.

5.1.3

Should Customer fail to fulfill any obligation, Customer is in breach without any further notification of breach being required. Shoot My Food reserves the right to charge all incurred costs to Customer, including judicial and extra-judicial expenses, with regard to the collection of debts from Customer. Extra-judicial collection costs amount to 15% of the debt, with a minimum of Euro 500, (five hundred). In any case Customer will be charged interest on a monthly basis, at the legal percentage rate, on all outstanding debts starting from the date of failure to pay.

5.1.4

Until full payment has been made, Shoot My Food has the right to suspend all services and obligations to Customer. The Customer's obligation to meet Customer's commitments remains unchanged.

5.1.5

If Shoot My Food is unable to make a delivery in time due to Customer, Shoot My Food will have the right to charge a 1,5% interest reimbursement on a monthly basis over the indebted amount.

5.1.6

Annual or periodic amounts are due as an advance at the moment of realization of the agreement between the parties and shall be billed to Customer, appropriately itemized prior to each year or other period that the agreement between parties continues.

5.1.7

The indebted amount in article 5.1.1 may be increased with order costs, postage costs and costs of third parties. An increase can also take place in the event that activities have to take place outside of Shoot My Food's office. In the event that activities need to take place outside of Shoot My Food's office, hourly rates, travel and waiting- time compensations, actual travel and/or kilometer compensation, hotel expenses and any other costs connected to such services will be charged. The travel and waiting- time compensation amounts to 50% of the current hourly rate. The means of transportation will be determined by Shoot My Food. The foregoing is also applicable on services provided outside of The Netherlands.

5.1.8

Above mentioned paragraphs leave all the legal rights of Shoot My Food unhindered, when Customer fails to meet Customer's commitments.

5.2 Price Changes

5.2.1

The prices agreed to between Shoot My Food and Customer are among other things based on the costs of salaries, social premiums, materials, and travel and accommodation costs, etc., as well as the rate of exchange between the currencies as applicable at the time of closing of the agreement. Shoot My Food is authorized, in case of changes to one or more of the cost items and/or changes in the rate of exchange, to adjust the prices to these changes.

5.2.2

Shoot My Food will offer Customer the possibility to become acquainted with possible changes in prices. If Customer does not agree with a price change, Customer will only be permitted to terminate the agreement from the date the change in price becomes applicable, if the total price increase during 1 (one) year exceeds the yearly inflation rate of the current year (or previous year for price increases announced for the next year) as published by the CBS (Dutch Bureau for Statistics) by 5%.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 Rights of Customer and Shoot My Food

6.1.1

Shoot My Food has the exclusive right to further develop the Shoot My Food Products and place them at the disposal of third parties by means of licenses.

6.1.2

Except where Third Party Products are concerned of which the property rights have not been transferred to Shoot My Food, all intellectual property rights, industrial property rights and other rights resulting from all activities carried out by Shoot My Food, regardless of where and when carried out and regardless of whether it concerns the delivery of an existing Product or a still-to-be-developed Product, reside with Shoot My Food.

6.1.3

Customer acknowledges that all present and future intellectual property rights, industrial property rights, other rights and the registration and/or application of the foregoing rights and/or similar rights for the whole term thereof and all renewals or extensions thereof, now or at any time in the future worldwide at all times shall be and are hereby assigned or will be transferred to Shoot My Food.

6.1.4

Customer is not permitted to remove or alter any designation concerning intellectual property rights, industrial property rights, other rights, trade-marks and trade-names from the Products, or to have such changes made by third parties.

6.1.5

In the event that Shoot My Food, Customer or a third party makes functional improvements or other adjustments in the Products the intellectual property rights, industrial property rights and other rights vested in the improved or adjusted Product will remain unchanged with Shoot My Food or the rightful third party. If the above mentioned rights do not belong to Shoot My Food or the rightful third party, Customer will cooperate in transferring the above mentioned rights to Shoot My Food or the rightful third party.

6.2 Indemnification

6.2.1

Shoot My Food shall protect Customer from any allegation to the effect that the Shoot My Food Products violate a copyright valid in The Netherlands. Shoot My Food shall pay the damages, expenses, and court costs that Customer is ordered to pay by the final court ruling, provided that Customer:

- a) notifies Shoot My Food immediately, but no later than within 10 (ten) days, after Customer becomes aware of the infringement or could have become aware of the infringement, in writing of the existence of the allegation of infringement; and
- b) gives the case completely over to Shoot My Food, including all negotiations and arrangements that might lead to a settlement.

6.2.2

Under the conditions as set out in article 6.2.1 sub a) and b) Shoot My Food shall indemnify Customer from any allegation to the effect that the Third Party Products delivered by Shoot My Food to Customer violate a copyright belonging to a third party. In accordance with article 1.8.9 this indemnity and the resulting liability with regard to Third Party Products are limited to the conditions under which and to what extent the third party will indemnify and is liable towards Shoot My Food.

6.2.3

In case of an allegation or possible allegation of violation, Shoot My Food reserves the right to obtain a license or sub license on the Product in question or to change or replace the Product in such a way that the Product will no longer infringe a copyright valid in The Netherlands. If, at Shoot My Food's sole judgment, the foregoing remedies are not a reasonable option, Shoot My Food has the right to take the delivered Product back against reimbursement of payments made for the Product in question, minus a reasonable compensation for having made use of the Product.

6.2.4

Shoot My Food shall not indemnify Customer against an action in the event that:

- a) what is offered by Customer is part of or is delivered in conjunction with a Product and this combination results in a violation of an intellectual property right, industrial property right or other right valid in the Netherlands or elsewhere;
- b) Customer has made a change in or to the Product;
- c) It concerns Content Private;
- d) It concerns Products for which Shoot My Food has explicitly excluded liability in the agreement.

6.2.5

If Shoot My Food and Customer agree that the intellectual property rights, industrial property rights or any other rights of a Shoot My Food Product, or a part thereof, shall be transferred to Customer, Customer will indemnify Shoot My Food against any action insofar as such is based on the fact that the Product, or a part thereof, violates an intellectual property right, industrial property right or any other right belonging to a third party.