

Saskia Brand/Lotus Illustrations

TERMS AND CONDITIONS

1 Agreement, offer and confirmation

1.1 These general terms and conditions apply to the conclusion, content and fulfillment of all agreements concluded between the client and the contractor, with the exclusion of purchase or other conditions from the client.

1.2 Offers are without obligation and are valid for 2 months. Quotations can undergo changes due to unforeseen changes in the work. Prices are exclusive of VAT and other government levies. Mentioned rates and offers do not automatically apply to future assignments.

1.3 Orders must be confirmed in writing by the client. If the client fails to do so but nevertheless agrees that the contractor commences the execution of the assignment, then the content of the quotation shall be deemed to have been agreed. Further verbal agreements and stipulations are only binding on the contractor after they have been confirmed by the contractor in writing.

1.4 If the client wishes to provide the same assignment to others than this contractor at the same time or has already given the assignment to another person, he or she must inform the contractor, stating the names of these others.

2 The execution of the agreement

2.1 The contractor will make every effort to carry out the assignment carefully and independently, to represent the interests of the client to the best of her knowledge and to strive for a result that is useful to the client. Insofar as necessary, the contractor will keep the client informed of the progress of the work.

2.2 The client is obliged to do all that is reasonably necessary or desirable to make timely and correct delivery by the contractor possible, in particular by the timely delivery of complete, sound and clear data or materials. The responsibility for the final product is taken over by the client after the contractor has submitted the design for assessment and the design has been approved by the client.

2.3 Any deadline specified by the contractor for the completion of the design is indicative, unless the nature or content of the contract indicates otherwise. Should the specified deadline be exceeded, the client must give the contractor written notice of default.

2.4 Unless agreed otherwise, performing tests, applying for permits and assessing whether the client's instructions comply with legal or quality standards are not part of the assignment of the contractor.

2.5 Before proceeding with production, re-production or publication, parties must give each other the opportunity to check and approve the latest models, prototypes or tests of the design. If the contractor, whether or not on behalf of the client, will give orders or directions to production companies or other third parties, the client must confirm his / her approval in writing at the request of the contractor.

2.6 Complaints must be communicated to the contractor in writing as soon as possible, but in any event within ten working days after completion of the assignment, failing which the client will be deemed to have fully accepted the result of the assignment.

3 Enabling third parties

3.1 Unless otherwise agreed, assignments to third parties, in the context of the realization of the design, are provided by or on behalf of the client. At the request of the client, the

contractor may, at the expense and risk of the client, act as authorized representative. Parties can decide on a further compensation to be agreed upon.

3.2 If the contractor prepares a budget for the costs of third parties at the request of the client, this budget will only have an indicative purpose. If desired, the contractor can request quotations on behalf of the client.

3.3 If in the performance of the assignment the contractor, in accordance with an explicit agreement, purchases goods or services from third parties for its own account and risk, after which these goods or services are passed on to the client, the provisions from the general terms and conditions of the supplier with regard to the quality, quantity, quality and delivery of these goods or services also apply to the client.

4 Rights of intellectual property and property rights

4.1 Unless agreed otherwise, all intellectual property rights arising from the assignment - including patent rights, design rights and copyright - are vested in the contractor. To the extent that such a right can only be obtained through a deposit or registration, only the contractor is authorized to do so.

4.2 Unless otherwise agreed, the assignment does not include carrying out research into the existence of rights, including patent rights, trademark rights, drawing or design rights, copyrights or portrait rights of third parties. The same applies to any investigation into the possibility of such forms of protection for the client.

4.3 Unless the work does not lend itself to it, the contractor is at all times entitled to have his / her name mentioned or removed from the work or to have it removed and the client is not permitted without prior consent to the work without stating the to publish or reproduce the name of the contractor.

4.4 Unless otherwise agreed, the work drawings, illustrations, prototypes, models, templates, designs, design sketches, films and other materials or (electronic) files created by the contractor in the context of the assignment remain the property of the contractor, irrespective of whether these have been provided to the client or to third parties.

4.5 After completing the assignment, neither the client nor the contractor has a data retention obligation towards each other with regard to the materials and data used.

5 Use and license

5.1 When the client fully complies with his obligations under the contract with the contractor, he obtains an exclusive non-transferable license to use the (graphic) de-sign.

5.2 The client is responsible for acquiring li-censes from third parties for copyright material that will be used in end products. Copyright material includes, among other things: fonts, software, house style elements, photographs and compositions.

5.3 Without the written consent of the contractor, the client is not entitled to use the design more widely or in any other way than has been agreed. In case of not agreed broader or other use, including modification, mutilation or damage to the preliminary or final design, the contractor is entitled to compensation for infringement of his / her rights of at least three times the agreed fee, at least a fee which in fairness and fairness is in proportion to the committed infringement, without prejudice to the right of the contractor to claim compensation for the actual damage suffered.

5.4 The client is not (any longer) allowed to use the results made available and every license granted to the client in the context of the assignment is canceled:

- a. from the moment the client does not (fully) fulfil his/her (payment) obligations under the agreement or is otherwise in default, unless the shortcoming of the client in the light of the entire assignment is of secondary importance;
- b. if the assignment, for whatever reason, is terminated prematurely, unless the consequences of this conflict with reasonableness and fairness.

5.5 The contractor, with due regard for the interests of the client, has the freedom to use the design for his own publicity or promotion.

6 Fees and additional costs

6.1 In addition to the agreed fee, the costs incurred by the contractor for the execution of the assignment are also eligible for reimbursement.

6.2 If the contractor is obliged to perform more or other work due to the non-timely or non-delivery of complete, sound and clear data / materials or due to an amended or in-correct assignment or briefing, these activities must be honoured separately, based on the customary fee rates applied by the contractor.

6.3 If the fee is in any way made dependent on facts or circumstances, which must appear from the administration of the client, the contractor, after a statement from the client, has the right to use the administration of the client by an accountant to be chosen by the contractor to have it checked. If the result of the audit by the accountant deviates by more than 2% or € 100, = from the statement and the statement by the client, the costs of this inspection will be charged to the client.

7 Payment

7.1 Payments must take place within 14 days of the invoice date unless agreed otherwise. If after the expiry of this period the contractor has not received any (full) payment, the client is in default, and he/she owes interest equal to the statutory interest. All costs incurred by the contractor, such as litigation costs and extrajudicial and judicial costs, including costs for legal assistance, bailiffs and collection agencies, made in connection with late payments, are at the expense of the client. The extrajudicial costs are set at at least 10% of the invoice amount with a minimum of € 150 excl. VAT.

7.2 The contractor has the right to charge his fee monthly for work performed and costs incurred for the execution of the assignment.

7.3 Upon the breach of its payment by the principal contractor is entitled to suspend all its activities for the client until such time as these obligations have been fulfilled. In that case, the client is explicitly not permitted to use the designs and / or end products made available to him and any license granted in the context of the assignment will lapse.

8 Cancellation and dissolution of the agreement

8.1 When the client terminates an agreement, he/she must pay, in addition to compensation, the fee and the costs incurred in connection with the work performed until that date.

8.2 If the contract is terminated by the contractor due to an attributable shortcoming in the fulfilment of the agreement by the client, the client must pay, in addition to compensation, the fee and the costs incurred in connection with the work performed until that date. Conduct on the part of the client based on which the contractor can no longer reasonably be expected to conclude the assignment, is also regarded in this connection as an attributable shortcoming.

8.3 The compensation referred to in the previous two paragraphs of this article shall at least include the costs arising from the commitments entered into by the contractor in its own name

for the fulfilment of the assignment with third parties, as well as at least 30% of the remaining part of the fee that the client would be indebted in full fulfilment of the assignment.

8.4 Both the contractor and the client have the right to dissolve the agreement immediately in whole or in part in case of bankruptcy or (provisional) suspension of payment of the other party. In the event of bankruptcy of the client, the contractor has the right to terminate the granted right of use, unless the consequences of this conflict with reasonableness and fairness.

8.5 In the event of dissolution by the client due to imputable shortcoming in the fulfilment of the obligations by the contractor, the services already delivered and the related payment obligation will not be subject to undoing, unless the client proves that the contractor is in default regarding these performances. is. Amounts that the contractor has invoiced for the dissolution in connection with what he has already performed or delivered properly for the execution of the agreement shall remain payable in full with due observance of the previous sentence and shall become immediately due and payable at the time of the dissolution.

8.6 If the activities of the contractor consist of the repetitive performance of similar activities, the applicable agreement will, unless otherwise agreed in writing, apply for an in-definite period. This agreement can only be terminated by written cancellation, with due observance of a reasonable notice period of at least three months.

9 Guarantees and indemnities

9.1 The contractor guarantees that the items supplied by or on behalf of him / her are designed and that, if there is copyright on the design, he / she is considered to be a maker in the sense of the Copyright Act and as a copy-right owner may have access to the work.

9.2 The client indemnifies the contractor or persons engaged by the contractor with the assignment for all third-party claims arising from the applications or the use of the result of the assignment.

9.3 The client indemnifies the contractor against claims relating to intellectual property rights on materials or data provided by the client, which are used in the execution of the assignment.

10 Liability

10.1 The contractor is not liable for:

- a. errors or shortcomings in the material provided by the client.
- b. misunderstandings, errors or shortcomings regarding the execution of the agreement if these find their cause or cause in acts of the client, such as not timely or not delivering complete, sound and clear data / materials.
- c. errors or shortcomings of third parties engaged by or on behalf of the client.
- d. defects in tenders from suppliers or for exceeding quotations from suppliers.
- e. errors or shortcomings in the design or the text / data, if the client, in accordance with the provisions of art. 2.5 has given its approval or has been given the opportunity to perform a check and has not used it.
- f. errors or shortcomings in the design or the text / data, if the client has omitted the creation or commissioning of a particular model, prototype or proof, and these errors in such a (.) model, prototype or test would have been perceptible.

10.2 The contractor is only liable for direct damage attributable to him / her. Direct damage means only:

- a. reasonable costs to establish the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these conditions;
- b. any reasonable costs necessary to have the defective performance of the contractor comply with the agreement;

c. reasonable costs incurred to prevent or limit damage, insofar as the client demonstrates that these costs have led to limitation of the direct damage as referred to in these general terms and conditions. Liability of the contractor for all other damage, such as indirect damage, including consequential damage, lost profit, mutilated or lost data or materials, or damage due to business interruption, is excluded.

10.3 Except in case of intent or deliberate recklessness on the part of the contractor or the management of the contractor - subordinates therefore excluded -, the liability of the contractor for damage arising from an agreement or of an unlawful act committed against the client is limited to the invoice amount that relates to the executed part of the assignment, minus the costs incurred by the contractor for the engagement of third parties, on the understanding that this amount will not exceed € 45,000, and in any case limited at all to a maximum of amount that the insurer pays out to the contractor in the appropriate case.

10.4 Any liability is cancelled by the lapse of one year from the moment the contract is completed.

10.5 The client is obliged, if reasonably possible, to retain copies of materials and data provided by him until the assignment is fulfilled. If the client fails to do so, the contractor cannot be held liable for damage that had not occurred with the existence of these copies.

11 Other provisions

11.1 The client is not permitted to transfer any right from an agreement concluded with the contractor to third parties, other than for the transfer of his entire company.

11.2 The parties are bound to treat confidentially the facts and circumstances that come to the attention of the other party in the context of the assignment. Third parties, who are involved in the execution of the assignment, will be bound to the same confidential treatment with regard to these facts and circumstances originating from the other party.

11.3 The headings in these general terms and conditions serve only to promote readability and are not part of these conditions.

11.4 Dutch law applies to the agreement between the contractor and the client. The court to take cognizance of disputes between the contractor and the client is the competent court in the district where the contractor is established, or the competent court according to the law, at the discretion of the contractor.