



**2C DESIGNS**

TOGETHER WE CREATE

**TERMS & CONDITIONS**

## 1 AGREEMENT, QUOTATION, AND CONFIRMATION

1.1 These general terms and conditions apply to the formation, content, and fulfillment of all agreements between the client and the contractor, to the exclusion of any purchasing or other terms and conditions of the client.

1.2 Quotations are non-binding and valid for 30 days. Price estimates may change due to unforeseen changes in the scope of work. Prices are exclusive of VAT and other government-imposed taxes and levies. Stated rates and offers do not automatically apply to future assignments.

1.3 Assignments must be confirmed by the client in writing. If the client fails to do so, but nonetheless agrees to the contractor commencing work on the assignment, the content of the quotation shall be deemed as agreed upon. Additional verbal agreements and stipulations will only bind the contractor once confirmed in writing.

1.4 If the client intends to give the same assignment to parties other than this contractor, or if the assignment has already been given to another party, the client must inform the contractor of this, including the names of those other parties.

## 2 PERFORMANCE OF THE AGREEMENT

2.1 The contractor shall endeavor to execute the assignment with care and independence, act in the best interests of the client to the best of their knowledge, and aim for a result that is useful to the client. If necessary, the contractor will keep the client informed of progress.

2.2 The client must do everything reasonably necessary or desirable to enable timely and proper delivery by the contractor, in particular by providing complete, sound, and clear data or materials in a timely manner.

2.3 Any time frame provided by the contractor for completing the design is indicative, unless otherwise apparent from the nature or content of the agreement. In the event of exceeding the specified time frame, the client must give the contractor written notice of default.

2.4 Unless otherwise agreed, the contractor's duties do not include conducting tests, applying for permits, or assessing whether client instructions comply with legal or quality standards.

2.5 Before proceeding with production, reproduction, or publication, both parties must be given the opportunity to check and approve the final models, prototypes, or proofs of the design. If the contractor issues instructions or orders to production companies or other third parties on behalf of the client, the client must confirm the aforementioned approval in writing at the contractor's request.

2.6 Complaints must be reported to the contractor in writing as soon as possible, but no later than ten working days after completion of the assignment. If not, the client will be deemed to have fully accepted the result of the assignment.

### **3 ENGAGEMENT OF THIRD PARTIES**

3.1 Unless otherwise agreed, assignments to third parties, in the context of the design process, shall be issued by or on behalf of the client. At the client's request, the contractor may act as an authorized representative for the client's account and risk. Parties may agree upon a separate fee for this.

3.2 If the contractor prepares a cost estimate for third-party services at the client's request, this estimate is for indicative purposes only. If desired, the contractor may obtain quotations from third parties on behalf of the client.

3.3 If, during the execution of the assignment, the contractor, by express agreement, procures goods or services from third parties at its own expense and risk, which are subsequently passed on to the client, the provisions in the general terms and conditions of the supplier regarding the quality, quantity, nature, and delivery of these goods or services shall also apply to the client.

### **4 INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP RIGHTS**

4.1 Unless otherwise agreed, all intellectual property rights arising from the assignment—including but not limited to patent rights, design rights, and copyrights—belong to the contractor. Insofar as such rights can only be obtained through registration or filing, only the contractor is authorized to do so.

4.2 Unless otherwise agreed, the assignment does not include conducting research into the existence of rights, such as patent rights, trademark rights, design rights, copyrights, or portrait rights of third parties. The same applies to any investigation into the possibility of such protections for the client.

4.3 Unless the nature of the work precludes it, the contractor has the right at all times to have his/her name mentioned or removed from the work, and the client is not permitted to publish or reproduce the work without mentioning the contractor's name, without prior written consent.

4.4 Unless otherwise agreed, all working drawings, illustrations, prototypes, models, molds, designs, design sketches, films, and other materials or (electronic) files produced by the contractor within the scope of the assignment remain the property of the contractor, regardless of whether they have been provided to the client or third parties.

4.5 Upon completion of the assignment, neither the client nor the contractor shall be obliged to retain any materials or data used.

## **5 USAGE AND LICENSE**

5.1 When the client fully complies with their obligations under the agreement with the contractor, they shall receive an exclusive license to use the design, limited to the rights of publication and reproduction in accordance with the purpose agreed upon in the assignment. If no agreements have been made regarding the purpose, the license shall be limited to the use of the design for which there were concrete intentions at the time the assignment was issued. These intentions must have been demonstrably communicated to the contractor prior to the conclusion of the agreement.

5.2 The client is not entitled to use or have the design used more extensively or in any way other than agreed upon without the contractor's prior written consent. In the event of unauthorized use, including but not limited to modification, mutilation, or distortion of the preliminary or final design, the contractor is entitled to compensation for infringement of at least three times the agreed fee, or at least a compensation that is reasonably and fairly proportionate to the infringement, without prejudice to the contractor's right to claim compensation for actual damages suffered.

5.3 The client is no longer permitted to use the provided deliverables, and any license granted to the client within the scope of the assignment shall be revoked:

- a. from the moment the client fails to fully meet their (payment) obligations under the agreement or otherwise defaults, unless the client's failure is of minor significance in the context of the entire assignment;
- b. if the assignment is terminated prematurely for any reason, unless this would be contrary to principles of reasonableness and fairness.

5.4 With due consideration for the client's interests, the contractor has the right to use the design for their own publicity or promotion.

## **6 FEE AND ADDITIONAL COSTS**

6.1 In addition to the agreed fee, the contractor is entitled to reimbursement of any costs incurred for the execution of the assignment.

6.2 If the contractor is required to perform additional or different work due to the client's failure to provide complete, sound, and clear data/materials on time, or due to a modified or incorrect assignment or briefing, this work shall be compensated separately, based on the contractor's standard rates.

6.3 If the fee is in any way dependent on facts or circumstances that must be proven from the client's administration, the contractor shall have the right, after the client's statement, to have the client's administration audited by an accountant of the contractor's choosing. If the audit reveals a deviation of more than 2% or €100 from the client's statement and settlement, the costs of the audit shall be borne by the client.

## 7 PAYMENT

**7.1 Payments must be made within 14 days of the invoice date. If no (full) payment has been received by the contractor after this period, the client is in default and owes interest equal to the statutory interest rate. All costs incurred by the contractor in connection with late payments—including legal costs, out-of-court and court costs, including costs for legal assistance, bailiffs, and collection agencies—are the responsibility of the client. Out-of-court costs are set at a minimum of 10% of the invoice amount, with a minimum of €150, excluding VAT.**

7.2 The contractor has the right to invoice their fee on a monthly basis for work performed and costs incurred in executing the assignment.

7.3 The client shall make payments due to the contractor without discount or set-off, except for set-offs with advances related to the agreement that the client has provided to the contractor. The client is not entitled to suspend payment of invoices for work already performed.

## 8 TERMINATION AND DISSOLUTION OF THE AGREEMENT

8.1 If the client terminates an agreement, they must, in addition to paying compensation for damages, pay the fee and costs related to the work performed up to that point.

8.2 If the agreement is dissolved by the contractor due to an attributable failure by the client to comply with the agreement, the client must pay, in addition to compensation for damages, the fee and costs related to the work performed up to that point. Acts by the client that make it unreasonable to expect the contractor to complete the assignment are also considered attributable failures in this regard.

8.3 The compensation referred to in the previous two sections shall include at least the costs arising from obligations entered into by the contractor in their own name for the fulfillment of the assignment with third parties, as well as at least 30% of the remaining part of the fee that the client would have owed upon full completion of the assignment.

8.4 Both the contractor and the client have the right to dissolve the agreement in whole or in part immediately in the event of bankruptcy or (provisional) suspension of payments by the other party. In the event of bankruptcy of the client, the contractor has the right to terminate the granted license, unless this would be unreasonable or unfair.

8.5 In the event of dissolution by the client due to an attributable failure by the contractor, the performances already delivered and the associated payment obligation shall not be subject to reversal, unless the client proves that the contractor is in default with respect to those performances. Amounts invoiced by the contractor before the dissolution for work properly performed or delivered in execution of the agreement shall remain due and become immediately payable at the time of dissolution, without prejudice to the preceding sentence.

8.6 If the contractor's work consists of repeatedly performing similar work, the applicable agreement, unless otherwise agreed in writing, shall be deemed to be for an indefinite period. This agreement may only be terminated by written notice, with due observance of a reasonable notice period of at least three months.

## **9 WARRANTIES AND INDEMNITIES**

9.1 The contractor warrants that the deliverables have been designed by or on behalf of them, and that, if the design is subject to copyright, they qualify as the creator under copyright law and may dispose of the work as the copyright holder.

9.2 The client indemnifies the contractor and any persons engaged by the contractor for the assignment against all third-party claims arising from the use or application of the results 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 and used in the execution of the assignment.

## **10 LIABILITY**

10.1 The contractor is not liable for:

- a. errors or deficiencies in materials provided by the client;
- b. misunderstandings, errors, or deficiencies in the execution of the agreement if these result from actions by the client, such as the late or incomplete delivery of complete, sound, and clear data/materials;
- c. errors or deficiencies by third parties engaged by or on behalf of the client;
- d. defects in suppliers' quotations or price exceedances by suppliers;
- e. errors or deficiencies in the design or text/data if the client has approved it in accordance with article 2.5, or if they have been given the opportunity to review it and did not exercise that right;
- f. errors or deficiencies in the design or text/data if the client failed to create or have created a specific model, prototype, or proof, and these errors would have been detectable in such a model, prototype, or proof.

10.2 The contractor is only liable for direct damage attributable to them. Direct damage is defined exclusively as:

- a. reasonable costs incurred to determine the cause and extent of the damage, provided that the determination relates to damage as defined in these terms and conditions;
- b. any reasonable costs necessary to ensure that the contractor's performance complies with the agreement;
- c. reasonable costs incurred to prevent or limit damage, provided that the client demonstrates that these costs have led to a limitation of the direct damage as described here.

Indirect damage, including consequential damages, lost profits, distorted or lost data or materials, or damage due to business interruption, is excluded.

10.3 Except in cases of intent or deliberate recklessness by the contractor or the contractor's management—thus excluding subordinates—the contractor's liability for damages arising from an agreement or a tort committed against the client is limited to the invoice amount related to the performed part of the assignment, minus costs incurred by the contractor for engaging third parties, with the understanding that this amount shall not exceed €45,000, and in any case is limited to the maximum amount paid out to the contractor by their insurer in the matter concerned.

10.4 Any liability expires one year after the completion of the assignment.

10.5 The client is obliged, if reasonably possible, to keep copies of materials and data provided until the assignment has been completed. If the client fails to do so, the contractor cannot be held liable for damage that would not have occurred if such copies had existed.

## **11 MISCELLANEOUS PROVISIONS**

11.1 The client is not permitted to transfer any rights from an agreement with the contractor to third parties, except in the case of transferring the client's entire business.

11.2 The parties are obliged to treat as confidential any facts and circumstances that become known to the other party in the context of the assignment. Third parties involved in the execution of the assignment shall be bound to the same confidentiality with respect to these facts and circumstances originating from the other party.

11.3 The headings in these general terms and conditions are intended solely to enhance readability and do not form part of these terms.

11.4 The agreement between the contractor and the client is governed by Dutch law. The court with jurisdiction over disputes between the contractor and the client is the competent court in the district where the contractor is established, or the court designated by law, at the contractor's choice.