



# GENERAL TERMS AND CONDITIONS

## Article 1 – General

Definitions General Terms and Conditions: these provisions.

User: AGA LAB Foundation, the party who applies these terms and conditions, hereinafter referred to as: AGA LAB.

Client: the party who enters into or intends to enter into an agreement with AGA LAB.

Offer: any oral or written offer made by AGA LAB to the Client to enter into an agreement with it.

Agreement: the agreement between AGA LAB and the Client that comes into effect when AGA LAB's offer is accepted by the Client.

## Article 2 – Applicability

2.1 - The provisions of these General Terms and Conditions apply to all:

- orders given to AGA LAB and to all work carried out by AGA LAB;
- offers made by AGA LAB;
- additional orders and follow-up orders;
- other agreements entered into by AGA LAB insofar as they are not purchasers of existing services;
- legal acts performed by AGA LAB.

2.2 - Deviations from and additions to these General Terms and Conditions are only binding if they are agreed in writing.

2.3 - The applicability of the Client's purchasing or other conditions is expressly rejected.

## Article 3 – Formation of the Agreement

3.1 - The Agreement is formed after written confirmation of agreement has been given to the Offer issued by AGA LAB.

3.2 - An Offer made by AGA LAB is always free from obligation, unless expressly stated otherwise.

3.3 - No changes can be made to an Offer once it has been sent and received. When AGA LAB accepts any further conditions or amendments made by the Client, it will then issue a new Offer and an order confirmation will be signed by the Client. The previously issued Offer and the order confirmation signed by the Client will be deemed to no longer apply.

3.4 - Proposals or Offers do not automatically apply to future orders.

## Article 4 – Performance of the Agreement

4.1 - The User will endeavour to carry out the order carefully and independently, represent the Client's interests to the best of its knowledge, and seek to achieve a result that benefits the Client. Where necessary, the User will keep the Client informed of the progress of the work.

4.2 - After final delivery of the design or basic image, a test print will be made with the Client. The approved test print will be signed and used as a basis for the print run. AGA LAB will implement and take into account any further amendments after receiving approval from the Client.



4.4 - The Client is under the obligation to do everything that is reasonably necessary or desirable to enable prompt and proper delivery by the User, in particular by supplying, or arranging for a third party to supply, complete, sound and clear data or materials, in a timely manner.

4.4 - A deadline given by the User for the completion of the design is indicative in nature, unless otherwise evident from the nature or content of the Agreement. The Client must give the User written notice of default in the event it exceeds the specified deadline.

4.5 - Unless agreed otherwise, the User's remit does not include performing tests, applying for permits and assessing whether the Client's instructions comply with legal or quality standards.

4.6 - Before proceeding to production, reproduction or publication, the parties will give each other the opportunity to check and approve the latest models, prototypes or tests of the design. If the User gives orders or instructions to production companies or other third parties, whether on behalf of the Client or otherwise, the Client will confirm the aforementioned approval in writing at the User's request.

Complaints must be communicated in writing to the User as soon as possible, but in any case within ten working days of completion of the order, otherwise the Client will be deemed to have fully accepted the results of the order.

## **Article 5 – Engagement of third parties**

5.1 - Unless otherwise agreed, orders given to third parties within the context of the realisation of the result will be given by or on behalf of the Client. If requested by the Client, the User may act as its authorised representative, at the Client's expense and risk. The parties may agree on a fee for this purpose.

5.2 - If third parties are engaged for the performance of the order, the provisions of the supplier's General Terms and Conditions regarding the quality, quantity, capacity and delivery of those goods or services shall also apply vis-à-vis the Client.

## **Article 6 – Use and licence**

6.1 - If the Client provides a design or image, the Client will also take ultimate responsibility for fairly establishing the copyright and licensing rights with the creator of the image or design.

The Client acquires an exclusive licence to use the design under the agreement for services insofar as this relates to the right of publication and reproduction in accordance with the purpose agreed when the work was commissioned. If no purpose was agreed, the licence will be limited to the intended use of the design at the time when the work was commissioned. These intentions must be demonstrably made known to the contracted party prior to the conclusion of the agreement.

6.2 - The Client is not (or no longer) allowed to use the results produced and any licence granted to the Client in the context of the order will lapse:

1. From the moment that the Client fails to (fully) comply with its (payment) obligations under the agreement or is otherwise in default, unless the Client's default is of minor significance in the light of the order as a whole.
2. If the order is terminated early for any reason, unless the consequences are contrary to reasonableness and fairness.

6.3 - With due regard of the Client's interests, the User is free to use the results for its own publicity or promotions.

## **Article 7 – Payment**

7.1 - AGA LAB is not liable to pay VAT and all amounts are charged without VAT.

7.2 - AGA LAB invoices as agreed in the offer.



7.3 - Payment must be made in euros without any deduction or discount by deposit or transfer to the bank or giro account indicated on the invoice, with mention of the project number or reference used by AGA LAB.

7.4 - If the Client fails to pay the amounts due within the agreed time period, the Client will owe late payment interest, without any notice of default being required, on the outstanding amount from that day, which is equal to the statutory interest rate in the Netherlands applicable on that day plus 3% (three per cent), as well as compensation for any collection costs incurred.

## **Article 8 – Intellectual property**

8.1 - AGA LAB reserves all rights vested in its products including publications, advice, (model) contracts, formats and systems. The Client will receive a non-exclusive usage right.

8.2 - Copyright may be transferred once, AGA LAB and the Client have agreed this in writing.

8.3 - The Client is not permitted to disclose, reproduce or exploit AGA LAB's results in any form whatsoever without AGA LAB's express prior written permission.

8.4 - The Client indemnifies AGA LAB against third-party claims based on alleged infringement of property rights, patent rights, copyright or other intellectual property rights relating to the performance of the Agreement.

## **Article 9 – Liability**

9.1 - AGA LAB and the employees it engages are only liable for loss or damage suffered by the Client that is the direct result of an attributable failure in the performance of the Agreement.

AGA LAB is not liable for:

- loss or damage incurred by the Client or third parties resulting from the provision of incorrect or incomplete data or information by the Client to AGA LAB or otherwise resulting from an act or omission by the Client;
- trading loss, indirect or consequential loss incurred by the Client or third parties;
- a mere delay to the agreed work, misunderstandings, errors or shortcomings with regard to the performance of the agreement if they originate in or are caused by the Client's actions, such as a failure to deliver complete, sound and clear data/materials on time or at all;
- Errors or shortcomings caused by third parties engaged by or on behalf of the Client;
- shortcomings in suppliers' offers or for exceeding suppliers' quotations;
- Errors or shortcomings in the basic image or design or other data, if the Client has failed to create a particular model, prototype or test, or to have one created, and these errors would have been apparent in such model, prototype or test.

Any liability of AGA LAB is limited to the amount which its business liability insurance allows to be claimed in the relevant case. If and insofar as no payment is made under such insurance, any liability will be limited to €10,000,-- Claims resulting from an intentional act or omission, gross negligence or recklessness on the part of AGA LAB are not covered by the limitations and exclusions of this article.

## **Article 10 – Force Majeure**

10.1 - If AGA LAB is unable to fulfil its obligations vis-à-vis the Client due to non-attributable failure (force majeure), fulfilment of those obligations shall be suspended for the duration of the force majeure situation

10.2 - If the force majeure situation has lasted for 90 (ninety) days, both parties have the right to cancel all or part of the agreement, to the extent that this is justified by the force majeure condition.

10.3 - Where AGA LAB has performed work, it will bill the Client for the respective costs.



#### **Article 11 – Bankruptcy and suspension of payment**

11.1 - Either party is authorised to terminate the agreement with immediate effect in the event of bankruptcy or suspension of payments by the Client, notwithstanding any right to compensation.

#### **Article 12 – Termination of the agreement**

12.1 - In the event of circumstances whereby AGA LAB cannot reasonably be required to perform the Agreement, AGA LAB is authorised to terminate the Agreement.

12.2 – Where AGA LAB has performed work, it will bill the Client for the respective costs.

#### **Article 13 – Disputes and applicable law**

13.1 - In the event of a dispute concerning the interpretation of an Agreement or its implementation, the parties undertake to first seek a solution that best serves their mutual interests. If necessary, they will engage a professional conflict mediator. Both parties will equally bear the costs. This does not affect the right of either party to approach the competent court.

13.2 - These General Terms and Conditions, as well as any related agreement, are governed by Dutch law.

#### **Article 14 – Miscellaneous provisions**

The parties are under the obligation to maintain the confidentiality of facts and circumstances, which come to the knowledge of the other party in the context of the order. Third parties involved in the performance of the order will be equally bound to maintain the confidentiality of facts and circumstances originating from the other party.

**2023 version**

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