

1. Agreement, quotation and confirmation

1.1 These general terms and conditions apply, with exclusion of purchase or other terms and conditions of the client, to the realization, the content and fulfillment of all agreements concluded between the client and the contractor (hereinafter referred to as: Setreset Films).

1.2 Quotations are without obligation and are valid for 30 days. Quotations may be subject to change due to an unforeseen change in work. Prices are exclusive of VAT and other government levies. Said 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 nevertheless agrees that Setreset Films will start executing the assignment, the content of the quotation will be deemed to have been agreed. Further oral agreements and stipulations only bind Setreset Films after they have been confirmed in writing by Setreset Films.

1.4 If the client wishes to give the same assignment to others than Setreset Films at the same time or has already given the assignment to other parties, the client must inform Setreset Films of this, stating the names of the other parties.

2. Execution of the agreement

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

2.2 The client is obliged to do everything that is reasonably necessary or desirable to enable a timely and correct delivery by Setreset Films, in particular by providing complete, sound and clear data or materials (or having them delivered) in time.

2.3 A term specified by Setreset Films for the completion of the assignment is indicative, unless the nature or content of the agreement indicates otherwise. The client must give Setreset Films written notice of default if the specified period is exceeded.

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

2.5 Before proceeding with production, reproduction or publication, the parties must give each other the opportunity to check and approve the latest presentations, treatments or tests of the end product to be produced. If Setreset Films, whether or not in the name of the client, will give orders or instructions to production companies or other third parties, the client must confirm its aforementioned approval in writing at the request of Setreset Films.

2.6 Complaints must be communicated to Setreset Films in writing as soon as possible, but in any case within ten working days after completion of the assignment, failing which the client is deemed to have accepted the result of the assignment in full.

3. Force majeure

3.1 If Setreset Films cannot, cannot timely or properly fulfill its obligations under the agreement due to a cause that cannot be attributed to it, including but not limited to incorrect supply of information by the client (as referred to in art. 2.2 of these general terms and conditions), illness of Setreset Films, illness of third parties engaged by Setreset Films for the execution of the assignment or (other) stagnations in the normal course of business in its company that cannot reasonably be attributed to Setreset Films, the obligations are suspended until the moment that Setreset Films is still able to fulfill them in the agreed manner, without Setreset Films being in default with regard to the fulfillment of those obligations and without being held to pay any compensation.

3.2 Client has the right, if the situation occurs as in art. 3.1 of these general terms and conditions, to terminate the agreement in whole or in part after Setreset Films is unable to comply after a period of four (4) weeks after the first date of attributable failure by Setreset Films, in which case the client is obliged to pay 30% of the agreed price to Setreset Films.

4. Engaging third parties

4.1 Unless agreed otherwise, assignments to third parties are provided by or on behalf of the client in the context of the realization of the assignment. At the request of the client, Setreset Films can act as authorized representative at the expense and risk of the client. The parties can agree on a fee to be agreed in more detail for this.

4.2 If Setreset Films draws up a budget for the costs of third parties at the request of the client, this budget will only have an indicative purpose. If desired, Setreset Films can request quotations on behalf of the client.

4.3 If Setreset Films purchases goods or services from third parties at its own expense and risk in the performance of the assignment, according to express agreement, after which these goods or services are passed on to the client, the provisions of 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.

5. Intellectual Property Rights and Ownership Rights

5.1 Unless otherwise agreed, all intellectual property rights arising from the assignment – including patent law, design right and copyright – accrue to Setreset Films. Insofar as such a right can only be obtained through a deposit or registration, only Setreset Films is authorized to do so.

5.2 Unless otherwise agreed, the assignment does not include conducting 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.

5.3 Unless the work does not lend itself to it, Setreset Films is at all times entitled to mention or remove his/her name from the work or to have it removed, and the client is not allowed to publish or reproduce the work without stating the name of Setreset Films, without prior permission.

5.4 Unless otherwise agreed, the design sketches, concepts, presentations, tests, footage, animations, films and other materials or (electronic) files created by Setreset Films within the framework of the assignment remain the property of Setreset Films, regardless of whether they have been made available to the client or to third parties.

5.5 After completion of the assignment, neither the client nor Setreset Films have a retention obligation towards each other with regard to the materials and data used.

6. Usage and Licensing

6.1 When the client fully complies with his obligations under the agreement with Setreset Films, he will obtain an exclusive license to use the end

product insofar as this concerns the right of publication and reproduction in accordance with the destination agreed upon with the assignment. If no agreements have been made about the destination, the licensing will be limited to that use of the end product for which there were firm intentions at the time the assignment was given. These intentions must be demonstrably communicated to Setreset Films before the conclusion of the agreement.

6.2 Without the written permission of Setreset Films, the client is not entitled to use the end product (or have it used) in a wider or different manner than agreed. In the event of broader or different use on which no agreement was reached, including modification, mutilation or infringement of the provisional or final design, Setreset Films is entitled to compensation for infringement of its rights of at least three times the agreed fee, or at least a compensation which is in reasonableness and fairness in proportion to the infringement committed, without prejudice to the right of Setreset Films to claim compensation for the actual damage suffered.

6.3 The client is no longer allowed to use the results made available and any license granted to the client in the context of the assignment will lapse:
a. From the moment that the client does not (fully) fulfill its (payment) obligations under the agreement or is otherwise in default, unless the client's shortcoming is of minor significance in the light of the entire assignment;

b. If the assignment, for whatever reason, is terminated prematurely, unless the consequences are contrary to reasonableness and fairness.

6.4 Setreset Films has, with due observance of the interests of the client, the right and freedom to use the design sketches, concepts, presentations, tests, footage, animations, films and other materials or (electronic) files created by Setreset Films for his own publicity or promotion (social media channels, his own website and online portfolio).

7. Fees and additional costs

7.1 In addition to the agreed fee, the costs incurred by Setreset Films for the execution of the assignment are also eligible for reimbursement.

7.2 If Setreset Films is forced to perform more or other work due to late or non-delivery of complete, sound and clear data/materials or due to a changed or incorrect assignment or briefing, these activities must be charged separately, based on the usual fees charged by Setreset Films.

7.3 If the fee is in any way dependent on facts or circumstances that must appear from the administration of the client, Setreset Films has the right, after a statement from the client, to have the administration of the client checked by an accountant to be chosen by Setreset Films. If the outcome of the audit by the accountant deviates by more than 2% or € 100 from the statement and settlement by the client, the costs of this audit will be borne by the client.

8. Payment

8.1 Payments must be made within 14 days of the invoice date. If after the expiry of this term Setreset Films has not yet received (full) payment, the client will be in default and will owe interest equal to the statutory interest. All costs incurred by Setreset Films, such as litigation costs and extrajudicial and judicial costs, including the costs for legal assistance, bailiffs and collection agencies, incurred in connection with late payments, shall be borne by the client. The extrajudicial costs are set at a minimum of 10% of the invoice amount with a minimum of €150,00 excluding VAT.

8.2 Setreset Films has the right to charge its fee on a monthly basis for work performed and costs incurred for the purpose of carrying out the assignment.

8.3 The client will make the payments due to Setreset Films without discount or set-off, except for set-off against deductible advances relating to the agreement, which he has provided to Setreset Films. The client is not entitled to suspend payment of invoices for work already performed.

9. Cancellation and termination of the agreement

9.1 When the client terminates an agreement, he must, in addition to compensation, pay the fee and the costs incurred with regard to the work performed until then.

9.2 If the agreement is dissolved by Setreset Films due to an attributable shortcoming in the fulfillment of the agreement by the client, the client must pay, in addition to compensation, the fee and the costs incurred with regard to the work performed up to that point. Behavior of the client on the basis of which Setreset Films can no longer reasonably be expected to complete the assignment, will also be regarded as an attributable shortcoming in this context.

9.3 The compensation referred to in the previous two paragraphs of this article will at least include the costs arising from the obligations entered into by Setreset Films in its own name with third parties for the fulfillment of the assignment, as well as at least 30% of the remaining part of the fee that would be due by the client upon full fulfillment of the assignment.

9.4 Both Setreset Films and the client have the right to dissolve the agreement immediately in whole or in part in the event of bankruptcy or (provisional) suspension of the other party. In the event of bankruptcy of the client, Setreset Films has the right to terminate the right of use granted, unless the consequences thereof are contrary to reasonableness and fairness.

9.5 In the event of dissolution by the client due to an attributable shortcoming in the fulfillment of the obligations by Setreset Films, the performances already delivered and the related payment obligation will not be subject to cancellation, unless the client proves that Setreset Films is in default with regard to those performances. Amounts that Setreset Films has invoiced before the dissolution in connection with what it has already properly performed or delivered for the performance of the agreement, remain due in full with due observance of the provisions of the previous sentence and become immediately due and payable at the time of dissolution.

9.6 If the activities of Setreset Films consist of the repeated performance of similar activities, the applicable agreement will apply for an indefinite period of time, unless otherwise agreed in writing. This agreement can only be terminated by written notice, with due observance of a reasonable notice period of at least three months.

10. Warranties and Disclaimers

10.1 Setreset Films guarantees that the delivered goods have been designed by or on behalf of him/her and that, if the design is subject to copyright, he/she is considered to be the creator within the meaning of the Copyright Act and can dispose of the work as the copyright holder.

10.2 The client indemnifies Setreset Films or persons engaged by Setreset Films for the assignment against all claims from third parties arising from the applications or use of the result of the assignment.

10.3 The client indemnifies Setreset Films against claims relating to intellectual property rights on materials or data provided by the client, which are used in the performance of the assignment.

11. Liability

11.1 Setreset Films is not liable for:

a. Errors or shortcomings in the material supplied by the client.

b. Misunderstandings, errors or shortcomings with regard to the implementation of the agreement if these are caused by actions of the client, such as late or non-delivery of complete, sound and clear data/materials.

c. Errors or shortcomings of third parties engaged by or on behalf of the client.

d. Defects in quotations 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 carry out an inspection and has not made use of this.

f. Errors or shortcomings in the design or the text/data, if the client has omitted to create or have carried out a certain model, prototype or test, and these errors in such a model, prototype or test could have been observed.

11.2 Setreset Films is only liable for direct damage attributable to it. Direct damage is only understood to mean:

a. Reasonable costs for determining the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions;

b. Any reasonable costs necessary to have the defective performance of Setreset Films 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 Setreset Films for all damage other than the aforementioned, such as indirect damage, including consequential damage, lost profit, mutilated or lost data or materials, or damage due to business interruption, is excluded.

11.3 Except in the case of intent or deliberate recklessness on the part of Setreset Films or the management of Setreset Films - subsidiaries are therefore excluded -, Setreset Films' liability for damage under an agreement or an unlawful act committed against the client is limited to the invoice amount that relates to the part of the assignment performed, less the costs incurred by Setreset Films for engaging third parties, on the understanding that this amount will not exceed €45,000 and will in any case be limited at all times to a maximum of the amount that the insurer pays to Setreset Films, if applicable.

11.4 Any liability expires after one year from the time the assignment is completed.

11.5 The client is obliged, if reasonably possible, to retain copies of materials and data provided by him until the assignment has been fulfilled. If the client fails to do so, Setreset Films cannot be held liable for damage that would not have occurred if these copies had existed.

12. Other Provisions

12.1 The client is not permitted to transfer any right under an agreement concluded with Setreset Films to third parties, other than in the case of transfer of its entire company.

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

12.3 Dutch law applies to the agreement between Setreset Films and the client. The court to take cognizance of disputes between Setreset Films and the client is the competent court in the district where Setreset Films is located, or the competent court according to the law, at the discretion of Setreset Films.