

## **Ron Valstar : General terms and conditions**

### **Article 1 General**

#### **1. Applicability of the general terms and conditions**

These terms and conditions are applicable to every agreement and legal relationship between Ron Valstar and a natural or legal person, hereinafter referred to as the client, except for derogations in the general terms and conditions with regard to the various services offered. Any general terms and conditions of the client do not apply, even when declared applicable by excluding these terms and conditions.

#### **2. Offer**

Offers remain valid for a period of 2 weeks. Quotations may be subject to change due to unforeseen changes to the work.

#### **3. Written confirmation**

Instructions must be confirmed by the client in writing. If the client fails to do so, but nevertheless approves of Ron Valstar starting to execute the instruction, the contents of the offer shall be deemed to have been agreed. Further verbal arrangements and stipulations bind Ron Valstar subject to written confirmation by Ron Valstar.

#### **4. Pitches**

If the client wishes to give the same instruction to parties other than Ron Valstar, he must notify Ron Valstar thereof, stating the names of these other parties.

#### **5. The same instruction given to other parties previously**

If the client has already given the same instruction to another party, he must notify Ron Valstar thereof, stating the name of this other party.

### **Article 2 The performance of the agreement**

#### **2.1 Execution of the instruction**

Ron Valstar shall make an effort to execute the instruction carefully and independently, to look after the interests of the client to the best of his ability and aim to achieve a result that can be used by the client. Insofar as required, Ron Valstar shall keep the client informed of the progress of the work.

#### **2.2 Provision of information**

The client is obliged to do everything reasonably required or desirable to enable a timely and correct delivery by Ron Valstar, particularly so by the timely provision of complete, proper and clear data or materials (or arrange for this to be provided). If these data or materials have not been delivered to Ron Valstar in time, Ron Valstar shall be entitled to suspend the performance of the agreement and/or to charge the client for the additional costs arising from the delay in accordance with the applicable rates.

#### **2.3 Requesting offers from suppliers**

If Ron Valstar, at the request of the client, prepares a third-party estimate of the costs, the estimate shall be for indicative purposes only. If so required, Ron Valstar can request offers on behalf of the client.

#### **2.4 Use of suppliers**

Instructions to third parties within the framework of the realisation of an end product are given by or on behalf of the client, unless otherwise agreed. Ron Valstar, at the request of the client, can act as authorised representative at the expense and risk of the client. The parties can set a fee for this to be agreed later. If Ron Valstar, as part of the execution of the instruction, as agreed and at its own expense and risk, purchases goods or services from third parties, after which these goods or services are forwarded on to the client, the provisions from the general terms and conditions of the supplier with regard to the quality, quantity, condition and delivery of these goods or services shall also apply to the client.

## **2.5 Publication and multiplication**

Prior to deciding to produce, multiply or publish, the parties must offer each other the opportunity to check and approve the latest models, prototypes or tests of the end product. If Ron Valstar, whether or not in the name of the client, gives instructions or guidance to manufacturing companies or other third parties, the client, at the request of Ron Valstar, must confirm his approval referred to above, in writing.

## **2.6 Term of delivery**

The term stated by Ron Valstar for the completion of the end product is given for indicative purposes only and does not entitle the client to termination or compensation if this term is exceeded, unless the nature or the contents of the agreement dictate otherwise. Ron Valstar, also in the event of having given a term for the completion of the end product, shall not be in default until after the client has sent him a notice of default by registered letter and continues to be in default after expiry of the reasonable term referred to in the notice of default.

## **2.7 Tests, permits and statutory provisions**

Executing tests, applying for permits and assessing whether the instructions of the client meet the legal or quality standards do no form part of the assignment of Ron Valstar, unless otherwise agreed.

## **2.8 Delivery**

Ron Valstar is not obliged to transfer source files, source codes, illustrations, prototypes, designs, draft designs, videos and other materials or (digital) files, created during the development of the end product, unless explicitly agreed otherwise.

## **2.9 Complaints**

Complaints must be submitted to Ron Valstar within ten working days of completion of an instruction.

## **Article 3 Intellectual property and property rights**

### **3.1 Copyright and industrial property**

All intellectual property rights arising from the instruction, including the patent right, design right and copyright shall be vested in Ron Valstar, unless agreed otherwise. Insofar as these rights can be obtained by means of application or registration, only Ron Valstar shall be entitled to do so.

### **3.2 Study into the existence of rights**

Carrying out a study into the existence of patent rights, trademark rights, drawing or design rights, copyrights and portrait rights of third parties does not form part of the assignment, unless agreed otherwise. The same applies to any study into the possibility of such forms of protection for the client.

### **3.3 Paternity right**

Ron Valstar is at all times entitled to state or remove his name on or from the work (or arrange for this to be stated or removed) and the client is not permitted to publish or multiply the work without stating the name of Ron Valstar, unless prior approval has been obtained.

### **3.4 Property of Ron Valstar**

The source files, source codes, illustrations, prototypes, designs, draft designs, videos and other materials or (digital) files created by Ron Valstar within the framework of the instruction shall remain the property of Ron Valstar, regardless of whether they have been made available to the client or third parties, unless otherwise agreed.

### **3.5 Use of source files**

Source files made available to the client or third parties are subject to article 4.1, unless otherwise agreed.

## **Article 4 Use and licence**

#### **4.1 The use**

Provided the client fully fulfils his obligations under the agreement with Ron Valstar, he obtains an exclusive licence for the use of the end product, insofar as this concerns the right of publication and multiplication in accordance with the purpose as agreed in the instruction. If no arrangements have been made in respect of the purposes, the granting of the licence remains limited to the use of the end product for which there were expressed intentions, at the time the instruction was given. These intentions must be demonstrably announced to Ron Valstar prior to entering into the agreement.

#### **4.2 Modifications**

Unless otherwise agreed, the client is not permitted to make changes in the provisional or final versions of the product or arrange for these changes to be made, without the written approval of Ron Valstar, unless agreed otherwise.

#### **4.3 Own promotion**

Ron Valstar, with due observance of the interests of the client, is free to use the end product for his own publicity or promotion.

### **Article 5 Fees**

#### **5.1 Fees and additional costs**

In addition to the agreed fees, the costs incurred by Ron Valstar for the execution of the instruction qualify for reimbursement.

#### **5.2 Fees for additional work**

If Ron Valstar, due to the late or non-delivery of complete, proper and clear data/materials or due to a change in and/or an incorrect instruction or briefing is required to carry out additional or alternative work, this work must be paid for separately, on the basis of the usual fees applied by Ron Valstar.

#### **5.3 Audit**

If the fee somehow depends on facts or circumstances, which must be clear from the administrative records of the client, Ron Valstar, after a statement by the client, shall be entitled to have the administration of the client audited by a chartered accountant. If such an audit shows that the statement of the client is not a true reflection of the actual course of events, the costs of this audit shall be at the expense of the client.

### **Article 6 Payment**

#### **6.1 Payment obligation**

Payments must be made within 14 days of the invoice date, unless agreed otherwise. If after expiry of this term Ron Valstar has not yet received (full) payment, the client is in default and owes interest equal to the statutory interest. All costs incurred by Ron Valstar in connection with late payments, such as legal costs and judicial and extrajudicial costs, including the costs for legal assistance, bailiffs and collection agencies, shall be at the expense of the client. The extrajudicial costs are set at at least 10% of the invoiced amount, subject to a minimum of NLG 250.

#### **6.2 Periodic payments**

Ron Valstar is entitled to invoice his fees for work performed and costs incurred for the execution of an instruction, each month.

#### **6.3 No deduction or setoff**

The client must pay the amounts owed to Ron Valstar without discounts or setoff, except for deductible advances in relation to the agreement and which he paid to Ron Valstar.

#### **6.4 Expired licence**

From the moment that the client fails to (fully) fulfil his payment obligations under the agreement or is otherwise in default, the client is not (or no longer) allowed to use the results made available and every licence granted to the client within the framework of the agreement expires, unless the shortcoming of the client is of minor importance within the context of the assignment as a whole.

## **Article 7 Cancellation and termination of the agreement**

### **7.1 Cancellation of the agreement by the client**

If the client cancels an agreement, he must pay the fees and the costs incurred with regard to the work performed to date, in addition to compensation.

### **7.2 Termination by Ron Valstar**

If the agreement is terminated by Ron Valstar on the grounds of an attributable failure in the performance of the agreement by the client, the client, in addition to compensation, must pay the fees and the costs incurred with regard to the work performed to date. Conduct by the client as a result of which Ron Valstar can no longer be reasonably expected to complete the instruction shall also be deemed as an attributable failure to perform within this framework.

### **7.3 Compensation**

The compensation referred to in the previous two paragraphs of this article shall at least comprise the costs arising from obligations towards third parties assumed by Ron Valstar in his name for the execution of the instruction, as well as 30% of the remaining part of the fees the client would have owed in the event of completion of the instruction.

### **7.4 Insolvency**

In the event of insolvency or moratorium of the other party, both Ron Valstar and the client have the right to immediately dissolve the agreement, partly or fully.

### **7.5 Use of the result after premature termination**

If the instruction is ended prematurely, regardless of the reason thereof, the client is not (or no longer) permitted to use the designs or files made available to him and every licence granted to the client within the framework of the instruction shall expire.

### **7.6 Continuing performance contract**

If the work of Ron Valstar consists of performing similar work on a regular basis, the applicable agreement to that end shall be for an indefinite period of time, unless agreed otherwise in writing. This agreement can only be terminated by means of a written notice of cancellation, subject to a reasonable notice period of at least three months.

## **Article 8 Guarantees and indemnifications**

### **8.1 Copyright owner**

Ron Valstar guarantees that the items delivered have been manufactured by or on behalf of him and, if the end product is subject to a copyright, he shall be deemed the manufacturer within the meaning of the Copyright Act and have the disposal of the work as the copyright owner.

### **8.2 Indemnification against claims with regard to use of the design**

The client indemnifies Ron Valstar, or individuals engaged by Ron Valstar for the execution of the instruction, against all third-party claims arising from the application or use of the result of the instruction.

### **8.3 Materials and data provided**

The client indemnifies Ron Valstar against claims with regard to intellectual property rights to the materials or data used for the execution of the instruction and which have been provided by the client.

## **Article 9 Liability**

### **9.1 Liability**

Ron Valstar cannot be held liable for the following:

1. defects in the material supplied by the client.
2. misunderstandings or faults with regard to the performance of the agreement, if these can be traced back to or are caused by acts of the client, including the late or non-delivery of complete, proper and clear data/materials.
3. faults of, by or on behalf of third parties engaged by the client.
4. flaws in offers of suppliers or for exceeding the quotations of suppliers.
5. defects in the end product or the text/data, if the client, in accordance with the provisions of article 2.5, has granted his approval and/or has been given the opportunity to carry out an inspection and has indicated not to have a need for such an inspection.
6. defects in the end product or the text/data, if the client omitted to create or carry out a certain model, prototype or test and these defects would have manifested themselves in such a model, prototype or test.

### **9.2 Limitation of liability**

Except in the event of intent or gross negligence on the part of Ron Valstar, the liability of Ron Valstar for damage by virtue of an agreement or an unlawful act committed against the client shall be limited to an amount in reasonable proportion to the scope of the instruction, on the understanding that this amount shall not exceed € 20,000 or, if the fees in connection with the instruction are higher, the amount of these fees.

### **9.3 Termination of liability**

All liability terminates one year after the instruction has been completed.

### **9.4 Copies of materials**

If reasonably possible, the client is obliged to retain copies of materials and data provided by him until the instruction has been completed. If the client fails to do so, Ron Valstar cannot be held liable for damage that would not have occurred if these copies had been available.

### **9.5 Obligation to retain**

Upon completion of the instruction, neither the client nor Ron Valstar has a mutual obligation to retain materials and data used.

### **9.6 Damage to computer systems**

Unless the client is a legal person and article 9.2 applies, Ron Valstar cannot be held liable for damage to computer systems, caused during the use of an application or file produced by Ron Valstar.

### **9.7 Viruses**

Unless the client is a legal person and article 9.2 applies, Ron Valstar cannot be held liable for damage to computer systems, caused by a virus, or any other form of self-replicating code. However, Ron Valstar shall do everything within its powers to keep his own systems free from viruses.

### **9.8 Prior art**

During the term of the agreement, Ron Valstar cannot be held responsible for the non-functioning of products in systems or applications older or newer than the prior art, unless agreed otherwise. The result and reproduction depend on external factors, such as: hardware, type of operating system and settings, previously installed software, browser type and browser version. Ron Valstar cannot be held liable for the influence of external factors onto the functioning of the end product.

### **9.9 Bugs**

If a product, during its development and/or after delivery and in accordance with the agreement, depends on third-party software, Ron Valstar cannot be held liable for damage incurred by the client arising from the demonstrable occurrence of bugs or other type of disfunctioning of the product, provided this is the result of the use of third-party software.

## **Article 10 Other provisions**

### **10.1 Transfer to third parties**

The client is not allowed to transfer any right from an agreement entered into with Ron Valstar, other than in the event of the transfer of his entire company.

### **10.2 Confidentiality**

The partners are obliged to treat facts and circumstances which, within the framework of the instruction, are disclosed to the other party, as private and confidential. Third parties who are engaged in the execution of the instruction are obliged to treat these facts and circumstances from the other party with the same privacy and confidentiality.

### **10.3 Headings**

The headings in these general terms and conditions are for clarification purposes only and do not form part of these terms and conditions.

### **10.4 Dutch law**

The agreement between Ron Valstar and a client is governed by Dutch law. The court that takes cognizance of disputes between Ron Valstar and the client is the competent court of the court district where Ron Valstar has his place of business.