

## GENERAL TERMS AND CONDITIONS

Astrid Davidse Design

The Hague

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### Article 1. Definitions

In these general terms and conditions, the following definitions apply:

1. **Astrid Davidse:** Astrid Davidse Design, the user of these general conditions.
2. **Customer:** the person or persons with whom Astrid Davidse has entered into an agreement, the acceptor of these general terms and conditions.
3. **Offer:** all offers and quotations from Astrid Davidse Design.
4. **Agreement:** the agreement between Astrid Davidse and Customer.
5. **Design:** the design that will be delivered by Astrid Davidse.
6. **Color concept guide:** guideline with trending colors for the season, as developed by Astrid Davidse.
7. **Product:** a design, color concept guide and/or any other product that will be delivered by Astrid Davidse.
8. **Service:** a service provided by Astrid Davidse, such as performing color recommendations or other consultancy activities.
9. **In writing:** where these general terms and conditions refer to 'in writing', electronic communication such as e-mail is also meant, provided that the identity of the sender and the authenticity of the communication are sufficiently established.

### Article 2. Applicability

1. These general terms and conditions apply to every offer and all agreements between Astrid Davidse and Customer.
2. If the Customer places conditions that do not appear in, or deviate from, these general terms and conditions, these will only be binding if they have been explicitly accepted in writing by Astrid Davidse.
3. The application of the Customer's general terms and conditions is expressly rejected.

### Article 3. Offer and formation agreement

1. Astrid Davidse makes her offer orally or in writing and gives Customer prize for her products and/or services.
2. Every Astrid Davidse offer is without obligation and subject to the availability of products.
3. Unless otherwise agreed upon, an offer loses its validity 14 days after the date on which Astrid Davidse made the offer.
4. Price quotations may be subject to changes due to (unforeseen) price increases of suppliers, for example. Astrid Davidse will inform Customer of this as soon as possible of such a change.
5. Customer cannot derive any rights from a manifest error and / or mistake in an offer from Astrid Davidse.
6. The agreement is concluded at the moment that Customer accepts Astrid Davidse's offer by agreeing to the offer in writing, for example by signing an order form. In the case of a product, the order form includes the name of the design taken by the customer, the price and, in case of a license, the type of use of the design that falls under the license.
7. After acceptance, the agreement can only be changed by mutual consent.
8. Every delivery by Astrid Davidse is final. Products cannot be returned to Astrid Davidse. The payment obligation of the Customer also remains valid if the Customer does not wish to make use of the products or services that have been delivered in the context of the agreement. Customer is not entitled to a discount or refund after delivery of the product or service.

#### **Article 4. Intellectual property**

1. Astrid Davidse has and retains the copyright to all products created by Astrid Davidse and products that have been included in Astrid Davidse's database or placed on its web page.
2. Customer may not register intellectual property rights on works developed or made available by Astrid Davidse or have them registered without the express permission of Astrid Davidse.
3. The parties will immediately inform each other when they have evidence that a third party is infringing the copyright on the products.
4. The parties will decide in consultation whether, and if so by what means, they want to take action against an infringement. Parties will cooperate with each other when it is decided to take action against an infringement.
5. If Astrid Davidse is not the copyright holder of a work, she has a valid license from the author to publish the work, to reproduce it and / or exploit it on behalf of the maker.

#### **Article 5. Designs**

1. Astrid Davidse and Customer agree whether the copyright is transferred to a design, or whether the Customer receives a license for the use of the design.
2. Unless otherwise agreed upon, the designs are delivered digitally, via e-mail or via a download link.
3. Unless otherwise agreed upon, the designs are delivered as a TIFF file. If possible, the index colors are also included with this TIFF file.
4. When Customer receives access to the Astrid Davidse database, he may view this database and select certain designs where desired.
5. The designs are copyrighted. Designs from Astrid Davidse, including the designs that appear on the web page and in the Astrid Davidse database, may not be made public and reproduced without permission or valid license from Astrid Davidse or the creator.

#### **Article 6. Designs: transfer of copyright**

1. When Astrid Davidse agrees with the Customer that she transfers the copyright on a design, she guarantees that she is fully entitled to transfer the copyrights.
2. If agreed, Astrid Davidse will, by a written agreement, unconditionally and exclusively transfer the copyright on the design to the Customer and will provide this as such, without retaining any associated warranties. The transfer is accepted by Customer.
3. If a transfer of copyright has been agreed upon, but a written agreement is not yet concluded, the parties agree that Astrid Davidse will transfer the copyright to said designs to Customer by written agreement at the first request of Customer.
4. After a transfer of copyright, Customer may transfer all rights that it receives under the written agreement to third parties or license it, without further consultation or consent from Astrid Davidse.
5. The transfer shall include all current and future capacities of copyright for all countries in the world, for all current and future forms of exploitation and for all current and future distribution media.
6. As far as possible, Astrid Davidse will transfer all moral rights to Customer.
7. Insofar as transfer is not possible, Astrid Davidse renounces, to the extent permitted by law, her moral rights.
8. Customer shall in any case have the right to modify and supplement the designs, to reproduce and to make them publicly available without any restriction, including publication without mentioning the name of the maker.
9. Deviating agreements will be recorded in writing.

#### **Article 7. Designs: license**

1. When Astrid Davidse issues a license, she will also mention where the design is already being used elsewhere.

2. Customer is not authorized, unless otherwise agreed upon, to grant sublicenses to third parties. The Customer may also not transfer his own license. The license expires in case of bankruptcy of Customer.
3. When Customer receives a license, Customer may reproduce the product and make it public for the duration and in the manner as agreed upon by the parties. The works may not be used elsewhere, longer or in any other manner without prior permission from Astrid Davidse.
4. Customer may not make any changes or alterations in works that have been licensed, unless agreed otherwise.
5. Customer may multiply the designs and publish them without the name of the maker, unless otherwise agreed.
6. Deviating agreements will be recorded in writing.

#### **Article 8. Color concept guide**

1. Astrid Davidse draws up a color advice, in which she makes a color concept guide, based on her knowledge of the market, research and experience in her field. This color concept guide consists of color profiles and is composed of trending colors.
2. Unless otherwise agreed upon, the color concept guide is printed in a paper folder and / or digitally delivered as an Adobe file. The color concept guide will be delivered including (digital) Pantone color coding so that Customer may apply it directly.
3. The color concept guide and its design are copyrighted. This means, among other things, that the color concept guide and the illustrations and texts contained therein may not be made public and reproduced without permission or valid license from Astrid Davidse.
4. The purchase of the (partly digital) color concept guide is definitive. After agreement on the offer by the Client, the purchase cannot be canceled by the Client. The payment obligation of the Client will remain in full even if the Client no longer wishes to make use of the agreed color concept guide and associated (digital) Pantone color codes.

#### **Article 9. Services**

1. If Customer purchases a service from Astrid Davidse, the parties will agree on which services and products are provided by Astrid Davidse.
2. In case of a service, the parties enter into a longer-term agreement with the duration of one year. The agreement is automatically renewed at the end of each calendar year, with another year, unless the Customer cancels prior to the new calendar year, in accordance with what is stipulated in article 12 paragraph 3 of these general terms and conditions.

#### **Article 10. Prices**

1. All amounts mentioned by Astrid Davidse are exclusive of VAT, unless agreed otherwise.
2. Astrid Davidse reserves the right to change prices, including but not limited to changes due to changes in VAT rates and/or changes in suppliers' prices.
3. Customer shall immediately report inaccuracies in provided or stated payment details to Astrid Davidse.
4. If the agreement is changed or supplemented, Astrid Davidse is entitled to adjust and increase the price accordingly.

#### **Article 11. Terms of payment**

1. Astrid Davidse will send Customer a (digital) invoice for the agreed amount, unless otherwise agreed upon.
2. Unless otherwise agreed, the payment term is not later than 30 days after the invoice date.
3. In the case of longer-term assignments, Astrid Davidse will invoice in advance every year in January, unless otherwise agreed.

4. Astrid Davidse reserves the right to send partial invoices at any time during the term of a longer-term agreement.
5. Astrid Davidse is entitled to increase the agreed remuneration for a longer-term agreement by 10% annually. This increase does not entitle the Customer to terminate or dissolve the agreement, apart from the usual cancellation methods.
6. Astrid Davidse will not proceed to delivery of a service or a product and the associated license and/or transfer of copyright, up until the moment that the invoice has been paid, unless agreed otherwise.

#### **Article 12. Termination and suspension**

1. If an invoice is not paid within the payment term, Astrid Davidse can terminate or suspend the agreement until the amount of the invoice has been paid. Astrid Davidse will first inform Customer of this.
2. Premature cancellation of a longer-term agreement by Astrid Davidse is possible and will be done in writing within a notice period of one calendar month.
3. A longer-term agreement can be terminated by the Customer with due observance of a term of one calendar month and with effect from the first subsequent new calendar year.
4. Astrid Davidse is entitled to terminate the agreement when Customer has filed for bankruptcy, has applied for suspension of payment or is placed under legal guardianship.
5. Suspension, or dissolution of the agreement, takes place in writing.

#### **Article 13. Liability**

1. Astrid Davidse can only be liable insofar as it is based on a legally or contractually attributable shortcoming.
2. Designs may be very similar, Astrid Davidse therefore gives no guarantees that a third party will not approach Customer with regard to any copyright or other intellectual property right. Astrid Davidse is not liable for claims by third parties due to an alleged infringement of copyright or other rights.
3. The liability of Astrid Davidse never exceeds the invoice amount.
4. Astrid Davidse is never liable for indirect damage, including stagnation in the regular course of affairs in the companies of Customer, lost profits, missed savings and consequential damage, in any way related to, or caused by the execution of the agreement by Astrid Davidse.
5. Astrid Davidse does not offer any (additional) guarantees with regard to the products supplied or to be delivered within the scope of the agreement.
6. Astrid Davidse is not liable for damage of any kind caused by the fact that Astrid Davidse has made assumptions on the basis of incorrect and/or incomplete information provided by or on behalf of Customer.
7. Astrid Davidse is not liable for shortcomings in the execution of the agreement caused by faulty information provision by Customer.
8. Customer indemnifies Astrid Davidse against and compensates Astrid Davidse for all claims from third parties that are directly or indirectly, mediately or immediately related to the execution of the agreement and all related financial consequences.
9. After delivery of digital files, the Client must ensure that these files are stored correctly and that they are backed up so that they cannot be lost. After delivering the digital files, Astrid Davidse is no longer responsible for these files.
10. Astrid Davidse is not liable for color deviations on non-calibrated screens or prints that have not been supplied by Astrid Davidse.
11. The limitations of liability included in these conditions do not apply if the damage is due to intent or gross negligence of Astrid Davidse.

#### **Article 14. Complaints and disputes**

1. Only Dutch law applies to agreements and other legal relationships between Astrid Davidse and Customer. Disputes are to be submitted to the competent judge in the district of The Hague.
2. Complaints about the performance of the agreement must be reported fully and clearly described to Astrid Davidse within a reasonable time, but no later than 7 days after Customer has discovered the defects.
3. Astrid Davidse will work to achieve the best possible solution with Customer.
4. Complaints or objections filed do not suspend the Client's payment obligation.

**Article 15. Miscellaneous**

1. Astrid Davidse may amend or supplement these general terms and conditions.
2. Changes will be communicated in time and in writing by Astrid Davidse to Customer.
3. If a provision of the agreement and / or the general terms and conditions proves to be void or voidable, the remaining provisions and the agreement remain in force.
4. In the event of any differences or divergent interpretation between this translation of these general terms and conditions and the Dutch version of the general terms and conditions, the Dutch text will prevail.