

# Terms of supply for the graphic arts industry

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## Article 1: Definitions

In these terms of supply, the following terms are defined as stated below:

- a) **Client:** the natural person or legal entity who/which has given an instruction to the supplier to produce or deliver goods, to render services or to carry out work;
- b) **Supplier:** the natural person or legal entity who/which has accepted the instruction as referred to under a or has submitted a possible offer prior to any instruction, or has otherwise entered into an agreement with the client;
- c) **Agreement:** every agreement between the supplier and the client for the production or delivery of goods, the rendering of services or the carrying out of work;
- d) **Offer/proposal:** every offer by the supplier to enter into an agreement;
- e) **Information carriers:** magnetic tapes and disks, optical disks and all other devices intended for the recording, processing, sending or copying with the aid of equipment or for publishing texts, images or other data, all this in the widest sense of the word;
- f) **KVGO:** Koninklijk Verbond van Grafische Ondernemingen [*Royal Association of Printing Companies*], with its registered office in Amstelveen, having its business address in Schiphol-Rijk, the Netherlands
- g) **Personal data:** personal data in the meaning of article 4(1) of the General Data Protection Regulation (GDPR);
- h) **Processing/Processing of personal data:** processing in the meaning of article 4 paragraph 2 of the General Data Protection Regulation (GDPR).

## Article 2: Applicability

1. These terms of supply apply to the formation, content and performance of all agreements entered into between the supplier and the client and to offers, acceptances, order confirmations and other (legal) acts of the supplier, whether or not in electronic format.
2. Any general (purchase) conditions of the client only apply if it has been expressly agreed in writing that these will apply to the agreement between the parties to the exclusion of these terms of supply. Acceptance of the applicability of the (purchase) conditions of the client to an agreement in this way does not under any circumstances imply that those conditions will also tacitly apply to any further agreement entered into.
3. If these terms of supply have been applicable to any agreement, they apply automatically - without this having to be separately agreed between the parties - to any agreement subsequently entered into between the parties unless expressly agreed otherwise between the parties in writing in respect of the relevant agreement.
4. If any provision of these terms of supply is void or is voided, the other provisions remain in full force. New provisions will be agreed between the parties in replacement of the void or voided provisions which are legally valid but are as close as possible to the original purport.
5. Where an agreement deviates from one or more provisions of these terms of supply, the provisions in the agreement prevail. In that case the other provisions of these terms of supply will continue to apply in full.
6. If translations have been issued of these terms of supply, the Dutch language version prevails over the version(s) in a different language.

## Article 3: Offers

1. The mere issue of an offer, whether or not including a quotation, budget, cost estimate or similar statement, does not oblige the supplier to enter into an agreement with the client.
2. Offers by the supplier are always without obligation and may only be accepted without deviations by means of a written notification, whether or not made electronically. Every offer is in any event deemed to have been rejected if it has not been accepted within one month, unless the offer states a different term for acceptance.
3. Obvious errors or mistakes in the offer of the supplier do not bind the supplier.
4. An offer accepted by the client within the term of validity can be withdrawn by the supplier within 7 days after the date of receipt of the acceptance by the client without this leading to any obligation for the supplier to compensate the client for any loss suffered as a result.
5. If, with a view to the submission of an offer, the client provides the supplier with data, information, drawings and such like, the supplier may rely on the accuracy of those and base its offer on such. The client indemnifies the supplier against any claim by third parties relating to the use of the data, information, drawings, and suchlike provided by or on behalf of the client.

## Article 4: Formation of agreements and cancellation

1. With due observance of all the other provisions in these terms of supply, an agreement is only formed:
  - a) through acceptance by the client of an offer;
  - b) by written order confirmation of an instruction issued (verbally or in writing) by the client, other than on the basis of an offer;
  - c) by the supplier actually carrying out the instruction of the client.
2. The agreement substitutes and replaces all earlier proposals, correspondence, agreements or other communication that has taken place between the parties prior to entering into the agreement, however much they may depart from or are contrary to the agreement.
3. Amendments of and/or additions to the agreement only apply after written acceptance of those by the supplier. The supplier is not obliged to accept amendments and/or additions to the agreement and is entitled to demand that a separate agreement is entered into. The supplier is entitled to charge any costs relating to the amendments of and/or additions to the agreement on to the client.
4. Commitments given by and agreements with subordinates or representatives of the supplier only bind the supplier towards the client if and insofar as these commitments and/or agreements have been ratified or confirmed by the supplier to the client in writing.
5. The client is entitled to cancel an agreement before the supplier has commenced with the performance of the agreement provided the client compensates the supplier for the loss arisen as a result. This loss includes the losses and lost profit suffered by the supplier and in any event the costs the supplier has already incurred in preparation for the agreement to be performed, including but not limited to that of reserved production capacity, purchased materials, engaged services and storage.
6. Cancellation of agreements to produce periodicals as referred to in article 13 is not possible.

## Article 5: Price

1. The prices referred to in an offer or agreement are in euros and are - unless expressly otherwise indicated - exclusive of cost of packaging, transport and other costs of shipment, import documentation, (transport) insurance(s), travelling time, travelling expenses and accommodation costs and exclusive of turnover tax and/or levies imposed by government, of whatever nature.
2. The price the supplier has stated for the work to be carried out by the supplier applies exclusively to the performance in accordance with the agreed specifications.
3. In the event of composite offers, there is no obligation to deliver part of the total performance on payment of the amount stated for this part in the offer or for a proportional part of the price stated for the totality.
4. If no price has been agreed between the parties but the parties have in a year prior to the agreement entered into one or more agreements with equal or virtually equal content, the price will be calculated on the basis of the production methods and the calculation rates used at the time, whereby the prices such as they applied at the time of entering into or performance of the current agreement are used.
5. If outside the application of the provisions in the previous paragraph of this article no price has been agreed between the parties, if a price has only been stated by way of estimate or the agreed price can be changed pursuant to these general terms, the price or the changing of the price respectively is determined at an amount considered reasonable in the graphic arts industry.

## Article 6: Price changes

1. The supplier is entitled to increase the agreed price if one or more of the following circumstances occur after the agreement has been entered into: rise in cost of materials, semi-finished products or services required for the performance of the agreement, increase in shipment costs, wages, employers' social insurances contributions, costs associated with other employment conditions, introduction of new and any increase of existing government levies on raw materials, energy or residues, a substantial change in exchange rates or, in general, circumstances that are comparable with all this.
2. Extra labour-intensive text, unclear copy, unclear sketches, drawings or models, defective information carriers, defective computer software or databases, defective manner of supply of the materials or products to be delivered by the client and all similar supplies by the client which oblige the supplier to carry out more work or incur more costs than it may reasonably have expected at the time of entering into the agreement, are grounds for an increase of the agreed price. Extraordinary or reasonably unforeseeable processing difficulties arising from the nature of the materials or products to be processed are also grounds to increase the agreed price.
3. The supplier is entitled to increase the agreed price if the client makes changes in the originally agreed specifications, including author corrections or changed instructions after receipt of the working drawings, models and of typesetting, printing and other proofs. The supplier will cooperate with these changes within the limits of reasonableness if the content of the performance to be carried out by the supplier will not materially deviate from the originally agreed performance.

#### Article 7: Payment term

1. Unless otherwise agreed, the client must pay the price and the other amounts due pursuant to the agreement within 30 days from the invoice date, without being able to rely on any discount, settlement or suspension. The payment must however take place in the manner indicated by the supplier if the client is a natural person who is not acting in the performance of a profession or business. If payment has not been received on time, the client is in default without a notice of default by the supplier being required.
2. In the event of an agreed delivery in consignments, the supplier is entitled, after delivery of the first part, in addition to the payment of this part to also request payment for the costs incurred for the entire delivery such as costs relating to typesetting, litho-graphs and proofs for example.
3. The client is at all times, and irrespective of the agreed payment conditions, obliged on first request of the supplier to make full or partial advance payment and/or provide security for the amounts to be paid to the supplier pursuant to the agreement. The offered security must be such that the claim and any accruing interest and costs is properly covered and that the supplier will be able to have recourse against such without too much effort. Any security becoming insufficient at a later date shall on demand of the supplier be supplemented up to sufficient security. If and as long as the client is in default of full or partial advance payment and/or providing security as demanded by the supplier, the supplier is entitled to suspend its obligation to supply.
4. If the client fails to pay on time as referred to in paragraph 1 of this article, the client shall, due to the delay in the payment of the amount owed, pay the statutory commercial interest over this amount from the 31st day after the invoice date, or if applicable, the statutory interest. The supplier is entitled to charge one/twelfth of this interest over every month or part of a month in which the client has failed to comply with its payment obligation in full.
5. In the event of late payment as referred to in paragraph 1 of this article the client is obliged to pay, in addition to the amount due and the accrued interest, both the extrajudicial and judicial collection costs in full, including the costs of lawyers, bailiffs and collection bureaus. The extrajudicial costs are set at minimum 15% of the principal sum with interest such with a minimum of € 100 without prejudice to the right of the supplier to claim the actual extrajudicial costs if such are higher. If the client is a consumer, the supplier can claim in respect of the extrajudicial costs an amount equal to the statutory maximum permitted payment in respect of extrajudicial collection costs as set out and calculated in accordance with the Reimbursement for Extrajudicial Collection Costs Decree [Besluit vergoeding voor buitengerechtelijke incassokosten], insofar as the outstanding amount - after default has occurred - is not paid by the client-consumer after a demand has been issued within fourteen days calculated from the day after the demand.
6. If the client is in default of a payment of any invoice as referred to in paragraph 1 of this article, all other outstanding invoices become immediately due and payable without any further notice of default being required to this end.
7. Payments made by the client first serve to settle the outstanding costs and/or interest and subsequently the due and payable oldest outstanding invoices, even if the client states that the payment relates to a different invoice.
8. Without prejudice to the provisions of mandatory law, the client is not entitled to suspend its payment obligations towards the client and/or to offset them with payment obligations of the supplier towards the client.
9. The supplier is entitled to offset all claims on the client with any debt the supplier may have towards the client or towards other natural persons/legal entities affiliated with the client.
10. In the following cases all claims of the supplier on the client become immediately due and payable:
  - a) if after the formation of the agreement, the supplier becomes aware of circumstances giving the supplier good reasons to fear that the client will fail to comply with its obligations, such entirely at the discretion of the supplier;

- b) if the supplier has asked the client to provide security for the performance as referred to in paragraph 3 of this article and this security fails to materialise or is insufficient;
- c) in the event of a petition for the liquidation or application for a moratorium of the client, liquidation or death or bankruptcy of the client or - if the client is a natural person - the Debt Restructuring (Natural Persons) Act [Wet Schuldsanering Natuurlijke Personen - WSNP] applies to the client.

#### Article 8: Manner of delivery; retention of title

1. Unless otherwise agreed, delivery takes place at the location where the supplier carries out its business. Digital deliveries take place to the email address indicated to this end by the client or, (at the risk of the client) by uploading to an external server, or by making it available on the server of (an auxiliary person of) the supplier.
2. The supplier is not obliged to deliver the (produced) goods and/or the services to be rendered in consignments.
3. The client is obliged to render its full collaboration to the delivery of the goods or services to be delivered by the supplier pursuant to the agreement. The client will be in default, even without being issued with a demand to this end, if the client fails to collect the goods to be delivered from the supplier on first request of the supplier or, if applicable, refuses to take receipt of the goods to be delivered.
4. Every delivery of goods by the supplier to the client takes place subject to the retention of title to such until the client has complied with all that the client is obliged to pursuant to any agreement, including interest and costs. Until such time, the client is obliged to keep the goods delivered by the supplier separate from other goods and clearly identified as the property of the supplier and to properly insure them and keep them insured.
5. In the event of delivery of goods to the client in a different territory than the Netherlands, the relevant goods are then - if and as soon as they are located in the territory of the relevant country - in addition to the retention of title under Dutch law as referred to in paragraph 4 above also subject to the retention of title as referred to in paragraph 4 above of the law of the relevant country, this on the proviso that in respect of the agreement for the rest exclusively Dutch law applies.
6. As long as a retention of title rests on the delivered goods, the client may not encumber or dispose of those goods other than during its normal cause of business.
7. After the supplier has invoked its retention of title it may collect its delivered goods. The client allows the supplier to enter the place where the goods are located.
8. If transport of the goods to be delivered has been agreed, this will take place for the account of the client. The costs relating to transport include in any event import and export duties, clearance charges, taxes and any other costs relating to the transport and delivery of the goods by the supplier, of whatever nature. Unless otherwise agreed by the parties in writing.
9. The risk of the goods to be delivered to the client transfers to the client ex warehouse of the supplier, or the warehouse of the third party engaged by the supplier, unless expressly otherwise agreed in the agreement. All goods are at all times shipped at the risk of the client. Unless the client requests the supplier in a timely manner to insure the goods during the transport for the account and at the risk of the client (and/or otherwise determined in the agreement), the goods will be shipped uninsured by or on behalf of the supplier. Transport includes transmission of data with the aid of any technical means.
10. The supplier has complied with its delivery obligation by making the goods available to the client at the agreed time in its warehouse or the warehouse of a third party engaged by the supplier. The delivery document and/or accompanying annexes of the carrier signed by or on behalf of the client is/are conclusive proof of the delivery by the supplier of the goods stated on the delivery document and/or accompanying annexes.

The carrier accepting the goods from the supplier is deemed proof that they were externally in good condition, unless the contrary is shown in the consignment note or the delivery receipt.

11. The supplier is not obliged to store the goods to be delivered, unless the parties expressly agree otherwise in writing. If the client refuses to take receipt of the goods offered for delivery or goods made available, the supplier will store the relevant goods for 14 days after the date of offering at a location to be determined by the supplier. After expiry of this term, the supplier is no longer obliged to keep the goods ordered by the client available to the client and the supplier is entitled to sell the goods to a third party or otherwise dispose of such. The client remains nevertheless obliged to comply with the agreement by purchasing the relevant goods on first request of the supplier at the agreed price whilst the client is also obliged to pay the loss of the supplier which arises from the previous refusal of the client to take receipt of the relevant goods, including storage and transport costs.

#### Article 9: Delivery period

1. A delivery period stated by the supplier will be indicative only unless it has been expressly stated in writing that it concerns a deadline. The supplier, including in the event of an agreed deadline, is only in default after the client has issued the supplier with a written notice of default. The exceeding of the agreed delivery period does in any event not entitle to compensation. In the event of the termination of the agreement, the client is also not entitled to compensation unless the exceeding of the reasonable period set in the notice of default is the result of an intentional act or gross negligence by the supplier.
2. The tying of the supplier to an agreed deadline for delivery lapses if the client wishes to make changes in the specifications of the work, the item or the product or service or the client fails to comply with the provisions in paragraph 1 of article 11 of these conditions, unless the minor importance of the change or the minor delay does not reasonably necessitate the supplier to change the initial structurally timed allocation of production capacity.
3. In the performance of the agreement, the client is obliged by the supplier to do all that reasonably required or desirable to allow for a timely delivery by the supplier, such in particular the prompt answering of questions from the supplier, the prevention of defective supplies as referred to in paragraph 2 of article 6 and by observing the provisions in paragraph 1 of article 11 and paragraphs 1 and 2 of article 17 of these terms of supply.
4. In the event of failure by the client to comply with the provisions in the previous paragraph of this article and paragraph 3 of article 7, an agreed deadline is no longer binding and the client is in default without a written notice of default by the supplier being required. The supplier is then, without prejudice to the rights accruing to it by law, entitled to suspend the performance of the agreement until such time the client has remedied the default. The supplier will then as yet perform the agreement within a reasonable term.
5. The delivery period is also extended by the duration of the suspension if there is a suspension of the obligation by the supplier for a different reason other than the failure referred to by the client above in paragraph 4.

#### Article 10: Inspection on delivery

1. The client is obliged, promptly after delivery, to satisfy itself that the supplier has properly performed the agreement and is also obliged to notify the supplier immediately in writing, whether or not via digital means, as soon as the contrary becomes apparent to the client. The client must carry out this inspection and the relevant notification at the latest 14 days from delivery.
2. The supplier is always entitled to replace a previous defective performance with a new proper performance, unless the default can no longer be remedied.
3. The performance is deemed to have been properly performed between the parties if the client has failed to carry out the inspection or the notification as referred to in paragraph 1 of this article on time.
4. If according to the standards of reasonableness and fairness the period of 14 days referred to in the first paragraph of this article must be deemed as

- unacceptably short also for a careful and alert client, this period will be extended until at the latest the moment on which the inspection or notification of the supplier respectively is reasonably possible for the client.
5. The performance of the supplier is in any event deemed to be proper if the client has taken the delivered goods, or part of the delivered goods, in use, has treated or processed such, delivered it to third parties, or has taken them into use or has had them treated or processed or had them delivered to third parties respectively.
  6. Without prejudice to the provisions of mandatory law, complaints of whatever nature in respect of the performance by the supplier of the agreement or the proper performance of such by the supplier, do not suspend the payment obligations of the client. Complaints of whatever nature may only be reported to the supplier in writing.
  7. Without prejudice to the provisions of mandatory law, the supplier is under no obligation whatsoever in respect of a submitted claim if the client has not complied with all its obligations towards the supplier (both financially and otherwise) on time and in full.
  8. A claim relating to delivered goods and/or work carried out or service rendered by the supplier cannot affect previously delivered or still to be delivered goods and/or work or services, including if the goods still to be delivered and/or work or services still to be carried out are or will be delivered in performance of the same agreement.
  9. If goods are missing on delivery, the client must notify the supplier of this within 7 days after delivery in writing. In the event of a notification after expiry of this period, the missing goods will not be credited to the client, nor will the goods as yet be delivered to the client free of charge.

#### Article 11: Typesetting, print and other proofs

1. The client is obliged to check the typesetting, print or other proofs, whether or not received from the supplier at the client's request, carefully for errors or defects and to return those with due speed corrected or approved to the supplier.
2. Approval of the proofs by the client is deemed to be acknowledgement that the supplier has the carried out the work prior to the proofs correctly.
3. The supplier is not liable for deviations, errors and defects which have remained undetected in the proofs corrected or approved by the client.
4. Each proof produced at the request of the client will be charged in addition to the agreed price unless it has been expressly agreed that the costs of these proofs are included in the price.

#### Article 12: Deviations

1. Deviations between, on the one hand the delivered work or the delivered/produced goods or the work carried out/service rendered and on the other hand the original design, drawing, copy or model or the typesetting, print or other proof, cannot constitute a reason for rejection, discount, termination of the agreement or compensation if they are of minor importance.
2. In the assessment of the question as to whether or not the deviations in the totality of the work or the delivered/produced goods or the work carried out/services rendered are to be considered of minor importance, a representative random test from such is taken into consideration, unless it relates to individual particular items or work/services.
3. Deviations which, taking all circumstances into account, reasonably do not have, or have a minor, influence on the use value of the work or the delivered/produced goods or the work carried out/services rendered, are always deemed to be deviations of minor importance.
4. The client takes account of the fact that colours of printed material and layout files, as shown in the (digitally) produced galleys or as shown on a screen, will deviate to a certain degree from the colour of the printed work after production. Such deviations can also not form reason for rejection, discount or termination of the agreement or for compensation.

5. Unless expressly otherwise agreed in writing, overruns or underruns compared to the agreed number are permitted if they are not more or less than the following percentages:
  - print run up to 20,000 units: 10%
  - print run of 20,000 and more: 5%
 In respect of overruns or underruns of packaging printed matter, labels and continuous listing paper, a percentage of 10% is always permitted. The larger or smaller delivered number will be charged or settled respectively.
6. In respect of the quality and the weight of paper and carton, deviations that are deemed to be of minor importance are those which are permitted in accordance with the tolerance standards stated in the General Supply Terms of the Association of Paper Wholesalers. The relevant terms can be inspected at the supplier. The supplier will send the client a copy of these terms free of charge on request.
7. Deviations in other materials and semi-finished products used by the supplier which are permitted in accordance with the general terms of sale applicable to the delivery of these materials and semi-finished product to the supplier, are deemed to be deviations of minor importance. The relevant terms can be inspected at the supplier. The supplier will send the client a copy of these terms free of charge on request.

#### Article 13: Continuous performance contract; periodicals

1. An agreement to produce a periodical is in force, unless not expressly otherwise agreed in writing in this respect, for an indefinite period of time and can only be terminated by giving notice with due observance of a notice period as referred to in paragraph 2, unless the client pays a one-off termination fee of 50% of the total amount charged by the supplier over the entire previous year in production of the periodical.
2. The notice period is one year if it relates to a periodical appearing four times per year or more and 6 months if it concerns a periodical appearing less often.
3. A periodical as referred to in paragraph 1 of this article means a publication which is published at least twice per year.
4. Production within the meaning of paragraph 1 of this article will also include the production of semi-finished products or auxiliary materials such as loose booklets, litho work and typesetting work as well as work relating to the finishing and distribution of the publication.
5. An agreement as referred to in this article can only be terminated by means of a registered letter, a letter with acknowledgment of receipt or by means of a bailiff's notice.
6. The provisions in this agreement may only be departed from by written agreement.
7. Paragraphs 1, 5 and 6 of this article apply mutatis mutandis to agreements for the rendering of services or the carrying out of work, this on the proviso that the notice period in those cases is 6 months as standard.

#### Article 14: Intellectual property etc.

1. The client guarantees the supplier that the client is the entitled party in respect of all items received by or on behalf of the client in the context of the agreement in whatever form such as copy, typography, models, drawings, photos, images, lithos, films, videos, information carriers, software, data, source codes, object codes, samples, designs, sketches, processes, procedures, reports, articles, correspondence, documents etc. and that there is no infringement of the (intellectual property) rights of third parties, including the rights such third parties can exercise on the basis of an agreement or applicable laws and regulations. The client indemnifies the supplier both at law and otherwise against all claims third parties may exercise in this respect.
  2. If the supplier reasonably doubts whether the client is the entitled party as referred to in paragraph 1 of this article, the supplier is entitled to suspend the performance of the agreement until such time it is unequivocally established that the client is the entitled party. The supplier will then as yet perform the agreement within a reasonable term.
3. Unless expressly otherwise agreed in writing, the supplier is always the entitled party of the intellectual property rights which arise in respect of the goods,

services rendered and work carried out by the supplier in the performance of the agreement.

4. The items delivered by the supplier in the context of the agreement such as copy, typography, design drawings, models, working and detail drawings, data carriers, software, websites, data files, photographic recordings, lithos, films and similar production and aids, nor a part materially belonging to the design element of such, even if or to the extent that no copyright or other legal protection is in existence for the supplier for the design element, may not be multiplied in the context of any production process without the supplier's written permission.
5. After delivery by the supplier, the client acquires the non-exclusive, non-transferrable right to use the goods produced, the services rendered and the work carried out by the supplier in the context of the agreement, under the suspensive condition that the client has complied with its financial obligations under the agreement in full. This user right is limited to the right of normal use of the delivered goods in the context of business operations of the client and the client shall not otherwise reproduce or disclose these goods without the prior written permission of the supplier.
6. The right granted to the client on the basis of this article does not affect the right or the option of the supplier to use and/or exploit the parts, general principles, ideas, designs, algorithms, documentation, programming languages, protocols, standards, knowhow and such like on which such development is based, for other purposes. Neither does it affect the right of the supplier to make developments which are similar and/or derived from those which are or have been made for the benefit of the client.
7. Even if the agreement does not expressly provide for this, the supplier is always entitled to introduce technical features to protect equipment, data files, websites, software made available, software to which the client is granted access.

#### Article 15: Ownership of means of production etc.

1. All goods produced by the supplier such as means of production, semi-finished products and auxiliary means and in particular typography, design drawings, models, working and detail drawings, information carriers, computer software, data files, photographic recordings, lithos, clichés, films, micro and macro mountings, printing plates, screen printing matrices, engraving cylinders, stereotypes, punching knives and moulds, (foil) matrices, embossing plates and peripheral equipment, remain the property of the supplier, even if they have been stated as separate items on the offer or on the invoice.
2. The supplier is not obliged to handover the goods referred to in paragraph 1 to the client or otherwise transfer them to the client.
3. The supplier is not obliged to keep the goods referred to in paragraph 1 of this article for the client. If the supplier and the client agree that these goods will be kept for the client, this will be for a maximum duration of one year and without the supplier guaranteeing their suitability for repeated use.

#### Article 16: Property of the client, right of pledge

1. The supplier will keep the goods entrusted to the supplier by the client in the performance of the agreement as a careful custodian.
2. Without prejudice to the provisions in the previous paragraph of this article, the client will bear all the risks in respect of the goods referred to in paragraph 1 during storage. The client must take out an insurance itself for this risk, if required.
3. The client is obliged to ensure that, prior to the provision to the supplier of copy, a drawing, design, photographic recording or an information carrier, a duplicate of these items are made. The client is obliged to keep this copy in case the goods handed over have during storage by the supplier become unusable due to loss or damage. In that case, the client must provide the supplier with a new copy at the supplier's request on payment of material costs.
4. The client grants the supplier a right of pledge on all goods which, in the context of the performance of the agreement with the supplier, are brought under the control of the supplier, as well as on all other goods which are the property of the client and the supplier has brought under the control of the supplier and on



delivered goods in respect of which the supplier cannot rely on its retention of title due to the fact that the delivered goods have been merged, deformed or acceded, such for further security for all that the client may owe, in whatever capacity and whatever basis, to the supplier, including debts that are not due and payable and conditional debts.

#### **Article 17: The materials, products, specifications and information supplied by the client**

1. If the client has agreed with the supplier that the client will provide material, (electronic) information or products for printing or for processing, the client must provide this supply in a timely and proper manner for the benefit of a normal, methodical production. The client will receive instructions from the supplier to this end.
2. The client is also obliged, in addition to the material required for the agreed performance or the products required to this end, to deliver a reasonable quantity for proofs and waste sheets and suchlike required for the relevant production. The client will receive a statement from the supplier to this end. The client guarantees that the supplier will receive a sufficient quantity. The confirmation of receipt of the material or the products by the supplier does not imply any acknowledgement that a sufficient quantity or the quantity stated on the shipping document has been received.
3. The client bears the risk of misunderstandings in respect of the content and the performance of the agreement if this is caused by the supplier not having received specifications or other notifications made verbally or made by a person appointed to this end by the client, or have been transmitted by means of any technical means such as telephone, fax or email, or having received such incorrectly, late or incompletely.
4. The supplier is not obliged to inspect the goods received from the client prior to printing or treatment on their suitability to this end.
5. The supplier cannot be held liable for the failure in the performance of the agreement if this is caused by extraordinary processing difficulties or by processing difficulties which were reasonably unforeseeable by the supplier arising from the nature of the materials, (electronic) data or products supplied by the client nor if such is the result of discrepancies between the initial sample or example shown to the supplier and the materials, (electronic) data or products provided by the client at a later date.
6. The supplier does not guarantee characteristics such as durability, adhesion, lustre, colour, light or colour fastness or wear resistance if the client has not, at the latest on entering into the agreement, listed the characteristics and the nature of the materials or products delivered by the client and/or defective information was provided on the applied pre-treatments and/or the applied surface treatments.
7. Unless expressly agreed otherwise, the supplier neither can be held liable for the fact that the materials and products received by the supplier from the client and to be printed or processed by the supplier have become unstuck, are sticking together, have become soiled, have changed in gloss or colour nor for any damage caused to such materials and products if these materials and products have been pre-treated, including by the application of varnish, lacquer or anti-stain powder.
8. The client is obliged to notify the supplier of any special difficulties or health risks during the printing or processing of the materials and products supplied by the client in advance in writing.
9. The supplier is entitled to dispose of the left-overs of the materials and products supplied by the client, such as offcuts, as if such were the supplier's property. The client shall, at the supplier's request, be obliged to collect any unused materials and products as well as the left-overs referred to above from the supplier within a term to be set by the supplier.

#### **Article 18: Force majeure**

1. Failures in the performance of the agreement by the supplier cannot be attributed to the supplier if the supplier cannot be blamed for such a failure or if such a failure is not for its account under the law, the agreement or according to common opinion (force majeure).

2. Force majeure as referred to in paragraph 1 of this article includes in any event - but not exclusively - a failure as a result of war, mobilisation, riots, floods, blocked shipping, other blockages in transportation, stagnation in or restriction or cessation of supplies by public utility companies, shortage of gas, petroleum products or other means of power generation, fire, machinery breakdowns and other accidents, excessive staff sickness absence, strikes, lock-outs, trade unions action, export restrictions, other government measures, non-delivery of essential materials and semi-finished products by third parties, sabotage, intent or gross negligence by auxiliary personnel and other similar circumstances.
3. In the event of force majeure, the supplier has the option either to suspend the performance of the agreement until the force majeure situation has ceased to exist or to terminate the agreement wholly or in part, whether or not after having initially opted for suspension. In both cases the client is not entitled to any compensation. If the period during which the performance of the obligations by the supplier is impossible due to force majeure is longer than thirty (30) days, the client is also entitled to terminate the agreement partially (for the future), this on the proviso that the supplier is entitled in accordance with paragraph 4 of this article to send an invoice for the goods already delivered or the work/services already carried out. In the event of a partial termination, there is no obligation to compensate for (any) loss.
4. If on the occurrence of the force majeure situation, the supplier has already partially performed its obligations or can only partially fulfil its obligations, it is entitled to invoice that part separately and the client is obliged to pay this invoice as if it concerned a separate agreement.

#### **Article 19: Liability**

1. The supplier is liable for the loss the client suffers and which is the result of a failure in the performance that is attributable to the supplier. Only the loss for which the supplier is insured, or should reasonably have been insured - given the nature of the business of the supplier and the market in which it operates - is eligible for compensation and only up to the amount the insurance company pays out in the relevant case.
2. Not eligible for compensation are:
  - a) financial loss, such as - but not limited to - trading loss, consequential loss, loss due to delay, loss of profit, loss of sales, lost savings, reduced goodwill, reputational damage, loss relating to costs in connection with interruption or stoppage of (a part of) the business of the client and/or other indirect loss;
  - b) loss arisen due to the acts or omissions of the client and/or third parties in conflict with the instructions provided by the supplier or in conflict with the agreement and/or these terms of supply;
  - c) loss as the direct result of incorrect, incomplete and/or defective information provided by or on behalf of the client to the supplier.
3. If:
  - a) it is not possible for the supplier at the time of the entering into of the agreement, or not possible on reasonable conditions, to take out insurance as referred to in paragraph 1 of this article, or to extend such on reasonable conditions;
  - b) the insurance company does not pay the relevant claim;
  - c) the relevant loss is not covered by the insurance, the payment of the loss is limited to the amount agreed by the supplier with the client for the (current) agreement (exclusive of VAT).
4. The supplier is not, after delivery, liable for loss of whatever nature which arises due to or after the client has taken the (produced) goods into use, treated or processed or delivered them to third parties or has had them taken into use, treated, processed or delivered to third parties respectively.
5. The supplier is also not liable for damage to materials or products received by the supplier from the client to be printed, treated or processed by the supplier, if the client has failed, at the latest on entering into the agreement, to notify the supplier of the characteristics and the nature of these materials or products and provided proper information on the applied pre-treatments and the applied surface treatments.

6. If the supplier in respect of any loss for which it is not liable pursuant to the agreement with the client or these terms of supply or otherwise, is held liable by a third party, the client shall grant the supplier full indemnification in this respect and compensate the supplier all that it must pay to this third party.

#### **Article 20: Security**

1. If on the grounds of the agreement the supplier is obliged to provide some form of information security, this security will comply with the specifications on security agreed between the parties in writing. The supplier does not guarantee that the information security is effective under all circumstances. If an expressly described manner of security is absent in the agreement, the security will comply with a level that, in view of the state of the art, the sensitivity of the personal data and the costs associated with the security measures to be taken, is not unreasonable.
2. The access or identification codes and certificates provided by or on behalf of the supplier to the client, are confidential and will be treated as such by the client and will only be disclosed to authorised personnel members in the client's own organisation. The supplier is entitled to change the allocated access or identification codes and certificates.
3. The client shall adequately protect its systems and infrastructure, update those in a timely manner and at all times have operational antivirus software in place.

#### **Article 21: Personal data processing**

1. If the supplier processes personal data (as referred to in the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (the 'GDPR')) or has such processed, the supplier shall in connection with the processing of this data comply with the applicable laws and regulations, including but not limited to, the GDPR. In that case the supplier is deemed to be the processor as referred to in the GDPR and as such shall comply with its obligations arising from the GDPR. In that case, the supplier and the client will enter into a processor's agreement in the meaning of the GDPR, which will record the agreements between the parties.
2. In relation to the processing of the personal data referred to in paragraph 1 of this article, the client is obliged to comply with all the relevant laws and regulations, including but not limited to the GDPR. In that case the client is deemed to be the controller and/or processor as referred to in the GDPR. In its capacity as controller and/or processor, the client is fully responsible and liable for the performance of its obligations arising from the aforementioned laws and regulations, including but not limited to the GDPR.
3. In the event of processing of the personal data referred to in paragraph 1 of this article, the client guarantees that the processing of personal data was not unlawful and does not breach the rights of the relevant data subjects. The client indemnifies the supplier against any claims by data subjects or third parties as a result of the failure by the client to comply with the relevant laws and regulations, including but not limited to the GDPR. The supplier is only liable for the loss caused by the supplier processing the personal data if during the processing the obligations of the GDPR specifically aimed to the supplier as the processor have not been complied with or the supplier has acted outside or contrary to the legal instructions of the client.

#### **Article 22: Confidentiality**

1. Both parties are under a duty of confidentiality in respect of all confidential information they have received from each other or from a different source in the context of the agreement. Information is deemed to be confidential if this has been stated by a party or if this flows from the nature of the information.
2. If on the basis of a statutory provision or a legal judgement, the supplier is obliged to provide confidential information to third parties indicated to this end by the law or a competent court, and in the relevant circumstances the supplier cannot rely on

a legal privilege or a privilege acknowledged or approved by a competent court of law, the supplier is not obliged to pay compensation or damages and the client is not entitled to terminate the agreement, without prejudice to the provisions of mandatory law.

#### **Article 23: Expiry periods**

1. Without prejudice to the provisions of mandatory law, the legal claims and other powers of the client, on whatever basis, towards the supplier in relation to the produced/delivered goods and/or work/services carried out, expire after twelve (12) months from the date on which the client became aware or could reasonably have been aware of the existence of these rights and powers and the client has not submitted a written claim to the supplier before the expiry of the period.
2. If no written claim has been submitted to the supplier within the period referred to in paragraph 1 of this article in relation to the goods produced and/or work/services carried out by the supplier, without prejudice to the provisions of mandatory law, any legal claim of the client in this respect expires if the supplier has not within a period of four (4) months after receipt of the relevant claim been sued before a competent court on the basis of article 25 of the supply terms.

#### **Article 24: Termination**

1. In the event the client fails to perform one or several of its obligations under the agreement or fails to perform those in full, the client is in default by operation of law and the supplier has the right to unilaterally terminate the agreement, without any further notice of default or legal intervention being required, by means of a written notification to the client and/or suspend its obligations under the agreement without the supplier being obliged to pay any compensation and without prejudice to any rights accruing to the supplier, including the right to full compensation. All claims the supplier in these cases may have on the client (including but not limited to the amounts which the supplier has invoiced before the termination of the agreement in connection with all that the supplier has already properly carried out or delivered), will become immediately due and payable.
2. In the event of:
  - (the petition for) liquidation of the client, (the application for) a moratorium of the client, insofar the client is a natural person: the application of the Debt Restructuring (Natural Persons) Act to the client [Wet Schuldsanering Natuurlijke Personen (WSNP)] or his death; or
  - attachment of a substantial part of the assets of the client or the situation that the client must be deemed to no longer be able to fulfil the obligations under the agreement; or
  - cessation, liquidation or full or partial takeover, direct or indirect change in the control of the company of the client or any comparable situation; or
  - cessation of the business of the client;the client is in default by operation of law and the supplier has the right to unilaterally terminate the agreement, without any further notice of default or legal intervention being required, by means of a written notification wholly or in part, without the supplier being obliged to pay any compensation and without prejudice to any rights accruing to the supplier, including the right to full compensation.
3. In the event the client is irrevocably declared bankrupt, the right (insofar as applicable) to use the software, websites and suchlike made available and the use of the services of the supplier, terminates without an act of termination being required.

#### **Article 25: Applicable law**

1. The agreement between the supplier and the client is governed by Dutch law.
2. The Dutch Court has jurisdiction to hear all disputes arising or flowing from the performance of the agreement between the supplier and the client. The Court with jurisdiction is the Court of the district where the supplier is based, unless the client is a consumer and within one month after the supplier has invoked this stipulation towards the client in writing, has opted for dispute resolution by a Court competent in accordance with the law.