

General Terms and Conditions Cindy Hartmann Design

Definitions

1. Cindy Hartmann Design, established in Buggenum, Netherlands, Chamber of Commerce no 88750175.
2. Customer: the party which Cindy Hartmann Design has entered into an agreement with.
3. Parties: Cindy Hartmann Design and customer together.
4. Third companies: print on demand companies who sell products with my artwork or prints on/or companies that sell or produce products for my clients

Applicability

1. These terms and conditions will apply to all quotations, offers, activities, orders, agreements and deliveries of services by or on behalf of Cindy Hartmann Design.
2. Parties can only deviate from these conditions if they have explicitly agreed upon in writing.
3. The parties expressly exclude the applicability of supplementary and/or deviating general terms and conditions of the customer or of third parties.

Offers and quotations

1. Offers and quotations from Cindy Hartmann Design are without engagement, unless expressly stated otherwise.
2. An offer or quotation is valid for a maximum for a period of 1 month from its date, unless another acceptance period is stated in the offer or quotation.
3. If the customer does not accept an offer or quotation within the applicable time frame, the offer or quotation will lapse.

Acceptance

1. Upon acceptance of a quotation or offer without engagement, Cindy Hartmann Design reserves the right to withdraw the quotation or offer within 3 days after receipt of the acceptance, without any obligations towards the customer.
2. Verbal acceptance of the customer only commits Cindy Hartmann Design after the customer has confirmed this in writing (or electronically).

Prices

1. All prices used by Cindy Hartmann design are in euros, are exclusively of VAT and exclusive of any other costs such as administration costs, levies and travel-, shipping- or transport expenses, unless expressly stated otherwise or agreed otherwise.
2. Cindy Hartmann Design is entitled to adjust all prices for its products or services, shown in its shop, on its website or otherwise, at any time.
3. Increases in the cost prices of products or parts thereof, which Cindy Hartmann Design could not foresee at the time of making an offer or the conclusion of the agreement, may give rise to price increases.
4. The customer has the right to terminate an agreement as a result of a price increase as referred to in paragraph 3, unless the increase is the result of statutory regulation.

Samples/models (not currently applicable because Cindy Hartmann Design doesn't sell physical products at this moment, only through third parties)

If the customer has received a sample or model of a product, he cannot derive any rights from this other than that it is an indication of the nature of the product, unless the parties have explicitly agreed that the products be supplied conform to the sample or model.

Payments and payment term and consequences of late payment

1. Cindy Hartmann Design may, at the conclusion of the agreement, require the full payment in advance of the delivery of the services or products. When the full payment, or percentage of the agreement as agreed in the contract, is paid by the customer, the service or products will be sent electronically or shipped as agreed to.
2. Details of the payments in case of licensing agreements exclusively or non-exclusively are specified in the licensing agreements. This includes sometimes paying royalties or advanced payments.
3. In case of a buyout agreement, the files will be sent within 48 hours, electronically to the customer, when the total payment has been received by Cindy Hartmann Design.

4. When a customer doesn't pay the agreed amount in the agreed time frame, Cindy Hartmann Design has the right to sell the exclusive files to another customer in case of buying outright, without having to send the customer a reminder or to put him in default.
5. When the customer is in default in case of royalty payments, he is also due to extrajudicial collection costs and may be obliged to pay any compensation to Cindy Hartmann Design.
6. In the event of liquidation, bankruptcy, attachment or suspension of payment on behalf of the customer, the claims of Cindy Hartmann Design on the customer are immediately due and payable.

Right of withdrawal

Products bought from my Shop in Shop with Print on Demand Companies, like Spoonflower/Redbubble/Motiflow/Society6 or other Print on Demand companies

1. A consumer who buys physical products through links on my website or directly from the websites of this third party companies with one of the companies mentioned above, has to agree on their own specific Terms and Conditions. Cindy Hartmann Design cannot be held responsible for bad printing quality of bad product quality, services or shipment from these third party companies.
2. Agreements that require a notary are also excluded.

Settlement

The customer waives his right to settle any debt to Cindy Hartmann Design with any claim on Cindy Hartmann Design.

Retention of title (clausule van eigendomsvoorbehoud)

1. In case of a Buyout Agreement before the property is transferred to the customer, the customer may not pledge, sell, dispose of or otherwise encumber the products.
2. If Cindy Hartmann Design invokes its retention of title, the agreement will be dissolved and Cindy Hartmann Design has the right to claim compensation, lost profits and interest.

Delivery period

Any delivery period specified by Cindy Hartmann Design is indicative and does not give the customer the right to dissolution, if this period is not met with, unless the parties have expressly agreed otherwise in writing.

1. The delivery period starts after the customer has signed the agreement to Cindy Hartmann Design and is confirmed in writing or electronically by Cindy Hartmann Design to the customer.
2. Exceeding the specified delivery period does not entitle the customer to compensation or the right to terminate the contract, unless Cindy Hartmann Design cannot deliver within 14 days after the customer has urged him to do so in writing or if the parties have agreed upon otherwise.

Actual delivery

The customer must ensure that the actual delivery of the products ordered by him can take place in time.

Performance of the agreement

1. Cindy Hartmann Design executes the agreement to the best of its knowledge and ability and in accordance with the requirements of good workmanship.
2. Cindy Hartmann Design has the right to have the agreed services (partially) performed by third parties.
3. The execution of the agreement takes place in mutual consultation and after written agreement and payment of the possibly agreed advance by the customer.
4. It is responsibility of the customer that Cindy Hartmann Design can start the implementation of the agreement on time.
5. If the customer has not ensured that Cindy Hartmann Design can start the implementation of the agreement in time, the resulting additional costs and/or extra hours will be charged to the customer.

Duty to inform the customer

1. The customer shall make available to Cindy Hartmann Design all information, data and documents relevant to the correct execution of the agreement to in time and in the desired format and manner.
2. The customer guarantees the correctness, completeness and reliability of the information, data and documents made available, even if they originate from third parties, unless otherwise ensuing from the nature of the agreement.

3. If and insofar as the customer requests this, Cindy Hartmann Design will return the relevant documents.

If the customer does not timely and properly provide the information, data or documents reasonably required by Cindy Hartmann Design and the execution of the agreement is delayed because of this, the resulting additional Right to reuse simple elements in designs in other exclusive designs

Every pattern design is unique and mostly inspired by nature. Elements like leaves and flowers, dots and stripes will always be created exclusively for the design, but may look similar to elements in other designs. This also counts for background textures.

4. costs and extra hours will be charged to the customer.

Intellectual property

1. Cindy Hartmann Design retains all intellectual property rights (including copyright, patent rights, trademark rights, design and design rights, etc.) on all designs, drawings, writings, data carriers or other information, quotations, images, sketches, models, scale models, etc. unless parties have agreed otherwise in writing.
2. The customer may not copy or have copied the intellectual property rights without prior written permission from Cindy Hartmann Design, nor show them to third parties an/or make them available or use them in any other way.

Penalties

1. If the customer violates the articles of these general terms and conditions about secrecy or intellectual property, then he forfeits on behalf of Cindy Hartmann Design an immediately due and payable fine of 1.000,- Euro if the customer is a consumer and 5.000,- Euro if the customer is a company, for each violation and in addition an amount of 5% of the aforementioned amount for each day that this violation continues.
2. No actual damage, prior notice of default or legal proceedings are required in forfeiting the fine referred to in the first paragraph of this article.
3. The forfeiture of the fine referred to in the first paragraph of this article shall not affect the other rights of Cindy Hartmann Design including its rights to claim compensation in addition to the fine.

Indemnity

The customer indemnifies Cindy Hartmann Design against all third-party claims that are related to the products and/or services supplied by Cindy Hartmann Design.

Complaints

1. The customer must examine a product or service provided by Cindy Hartmann design as soon as possible for possible shortcomings.
2. If a delivered product or service does not comply with what the customer could reasonably expect from the agreement, the customer must inform Cindy Hartmann Design of this as soon as possible, but in any case within 1 month after the discovery of the shortcomings.
3. Consumers must inform Cindy Hartmann Design of this within two months after detection of the shortcomings.
4. The consumer gives a detailed description as possible of the shortcomings after detection of the shortcomings.
5. The consumer must demonstrate that the complaint relates to an agreement between the parties.
6. If a complaint relates to ongoing work, this can in any case not lead to Cindy Hartmann Design being forced to perform other work than has been agreed.

Giving notice

1. The customer must provide any notice of default to Cindy Hartmann Design in writing.
2. It is the responsibility of the consumer that a notice of default actually reaches Cindy Hartmann Design (in time).

Joint and several Client liabilities

If Cindy Hartmann Design enters into an agreement with several customers, each of them shall be jointly and severally liable for the full amounts due to Cindy Hartmann Design under that agreement.

Liability of Cindy Hartmann Design

1. Cindy Hartmann is only for any damage the customer suffers if and insofar as this damage is caused by intent or gross negligence.
2. If Cindy Hartmann Design is liable for any damage, it is only liable for direct damages that results from or is related to the execution of an agreement.
3. Cindy Hartmann Design is never liable for any damages, such as consequential loss, lost profit, lost savings or damage to third parties.
4. If Cindy Hartmann Design is liable, its liability is limited to the amount paid by a closed (professional) liability insurance and in the absence of (full) payment by an insurance company of the damages the amount of the liability is limited to the (part of the) invoice to which the liability relates.
5. All images, photos, colors, drawings, descriptions on the website or in a catalog are only indicative and are only approximate and cannot lead to any compensation and/or (partial) dissolution of the agreement and/or suspension of any obligation.

Expiry period

Every right of the customer to compensation from Cindy Hartmann Design shall, in any case, expire within 12 months after the event from which the liability arises directly or indirectly. This does not exclude the provisions in article 6:89 Dutch Civil Code.

Dissolution

1. The customer has the right to dissolve the agreement if Cindy Hartmann Design imputably fails in the fulfillment of his obligations, unless this shortcoming does not justify termination due to its special nature or because it is minor significance.
2. If the fulfillment of the obligations by Cindy Hartmann Designs is not permanent or temporarily impossible, dissolution can only take place after Cindy Hartmann Design is in default.
3. Cindy Hartmann Design has the right to dissolve the agreement with the customer, if the customer does not fully or timely fulfill his obligations under the agreement, or if circumstances give Cindy Hartmann Design good grounds to fear that the customer will not be able to fulfill his obligations properly.

Force majeure

1. In addition to the provisions of article 6:75 Dutch Civil Code, a shortcoming of Cindy Hartmann Design in the fulfillment of any obligation to the customer cannot be attributed to Cindy Hartmann Design in any situation independent of the will of Cindy Hartmann Design, when the fulfillment of its obligations towards the customer is prevented in whole or in part or when the fulfillment of its obligations cannot reasonably be required from Cindy Hartmann Design.
2. The force majeure situation referred to in paragraph 1 is also applicable – but not limited to: state of emergency (such as civil war, insurrection, riots, natural disasters etc.) defaults and force majeure of suppliers, deliverymen or other third parties; unexpected disturbances of power, electricity, internet, computer or telecoms; computer viruses, strikes, government measures, unforeseen transport problems, bad weather conditions and work stoppages.
3. If a situation of force majeure arises as a result of which Cindy Hartmann Design cannot fulfill one or more obligations towards the customer, these obligations will be suspended until Cindy Hartmann Design can comply with it.
4. From the moment that a force majeure situation has lasted at least 30 calendar days, both parties may dissolve the agreement in writing in whole or in part.
5. Cindy Hartmann Design does not owe any (damage) compensation in a situation of force majeure, even if it has obtained any advantages as a result of the force majeure situation.

Modification of the agreement

If, after the conclusion of the agreement and before its implementation, it appears necessary to change or supplement its contents, the parties shall timely and in mutual consultation adjust the agreement accordingly.

Changes in the general terms and conditions

1. Cindy Hartmann Design is entitled to amend or supplement these general terms and conditions.
2. Changes of minor importance can be made at any time.
3. Major changes in content will be communicated by Cindy Hartmann Design with the customer in advance as much as possible.
4. Consumers are entitled to cancel the agreement in the event of a substantial change to the general terms and conditions.

Transfer of rights

1. The customer cannot transfer its rights deriving from an agreement with Cindy Hartmann Design to third parties without the prior written consent of Cindy Hartmann Design.
2. This provision applies as a clause with a property law effect as referred to in Section 3:83 (2) Dutch Civil Code.

Consequences of nullity or annulability

1. If one or more provisions of these general terms and conditions prove null or annulable, this will not affect the other provisions of these terms and conditions.
2. A provision that is null or annulable shall, in that case, be replaced by a provision that comes closest to what Cindy Hartmann Design had in mind when drafting the conditions on that issue.

Applicable law and competent court

1. Dutch law is exclusively applicable to all agreements between the parties.
2. The Dutch court in the district where Cindy Hartmann Design is established is exclusively competent in case of any disputes between parties, unless the law prescribes otherwise.

Drawn up on

January 1st 2023 in Buggenum, The Netherlands