

GENERAL TERMS & CONDITIONS
COLORBLEED B.V.
version January 2022

CLAUSE 1 DEFINITIONS

"Agreement for Services": an agreement for services within the meaning of Section 7:400 et seq., pursuant to which COLORBLEED provides professional services to (the benefit of) its Client (in Dutch: *overeenkomst van opdracht*), which agreement for services will (in principle) consist of and/or be legally constructed by: i) the offer or quotation from COLORBLEED; ii) the written acceptance of the offer or quotation by the Client; and iii) the contract confirmation of COLORBLEED as set out in Clause 4.2 below;

"Agreement(s)": (an) Agreement(s) between COLORBLEED and a Counterparty;

"Client(s)": the customer(s) and client(s) of COLORBLEED, as well as licensees who conclude a License Agreement with COLORBLEED;

"COLORBLEED": the private limited liability company, Colorbleed B.V. – including its affiliated companies, its directors, its shareholders and its employees – having its registered address at Maliesingel 24 A in (3581 BG) Utrecht, registered in the Trade Register of the Dutch Chamber of Commerce under number: 64879089;

"Continuing Performance Agreement(s)": (an) Agreement(s) pursuant to which the Parties commit to a continuing performance, or pursuant to which the Parties commit to a series of performances (in Dutch: *duurovereenkomst*);

"Counterparty": a Client (in Dutch: *opdrachtgever*) who concludes an Agreement of Services with COLORBLEED; or a Supplier of COLORBLEED; or a licensee who concludes a License Agreement with COLORBLEED;

"General Terms & Conditions": the present stipulations as laid down herein being the general terms and conditions of COLORBLEED;

"License Agreement": an agreement between COLORBLEED and a licensee pursuant to which the licensee is granted a license to use (a) Work(s);

"Parties": COLORBLEED and the Counterparty jointly;

"Party": COLORBLEED or the Counterparty;

"Supplier(s)": the suppliers, including independent contractors, of goods and services to COLORBLEED;

"Website": the website of COLORBLEED, <https://www.colorbleed.nl/>;

"Work(s)": any and all copyrighted works within the meaning of the Dutch Copyright Act (in Dutch: *Auteurswet*) that are created/developed/designed for and/or to the benefit of a Counterparty and/or made available to a Counterparty by COLORBLEED.

CLAUSE 2 APPLICABILITY

- 2.1 The General Terms & Conditions are applicable to all offers, quotations, services, products, and (all visits to and use of) the Website of, and Agreements with COLORBLEED.
- 2.2 The General Terms & Conditions are applicable to any and all (legal) relationships pursuant to an Agreement or otherwise between COLORBLEED and its Clients and its Suppliers.
- 2.3 The General Terms & Conditions are also applicable to Agreements for the execution of which COLORBLEED engages third parties (being subcontractors or otherwise). The General Terms & Conditions do not merely apply to the benefit of COLORBLEED, but expressly to the benefit of the aforesaid third parties as well, as if these General Terms & Conditions were applied by these third parties themselves.
- 2.4 The applicability of any purchase conditions or other general terms and conditions of the Counterparty is hereby expressly excluded.
- 2.5 Any deviation from and/or addition to these General Terms & Conditions and/or any Agreement shall merely be valid and applicable in case COLORBLEED agreed upon and confirmed such deviations and/or additions in writing.

- 2.6 In case one or more stipulations laid down in these General Terms & Conditions and/or any Agreement appear to be null and void and/or voidable, this shall not affect the validity and applicability of any other stipulations laid down in these General Terms & Conditions and/or the Agreement. In this event, the Parties shall undertake to duly consult with each other to reasonably agree on any substitute stipulations to replace any stipulations that appear to be null and void and/or voidable, which substitute stipulations shall as much as possible reflect the purport of the stipulations being null and void and/or voidable, taking into account the initial intentions of the Parties.
- 2.7 In case there is any relevant situation or matter not being contemplated by these General Terms & Conditions and/or any Agreement, the Parties undertake to promptly consult with each other in order to as soon as possible and reasonably agree on any addition(s) to these General Terms & Conditions and/or the Agreement, which addition(s) shall as much as possible reflect the other stipulations of this General Terms & Conditions and/or the Agreement.
- 2.8 Should in any event COLORBLEED for whatever reason opt to not enforce and/or demand strict compliance with one or more stipulations laid down in these General Terms & Conditions or in any Agreement, this shall not in any way affect the validity and applicability of such stipulations, and COLORBLEED shall reserve its rights to enforce and/or demand strict compliance with such stipulations at any later date and/or in other events.
- 2.9 Unless expressly stipulated otherwise in these General Terms & Conditions and/or an Agreement, or unless otherwise agreed upon in writing with COLORBLEED, the Counterparty will not be entitled to transfer and/or assign to any third party any rights and/or obligations under these General Terms & Conditions and/or any Agreement.
- 2.10 The General Terms & Conditions shall (in principle) be duly made available (in Dutch: *ter hand gesteld*) by COLORBLEED to the Counterparty by email, to which email the General Terms & Conditions shall be attached (i.e. as PDF file), which email shall include an express reference to the attached General Terms & Conditions.
- 2.11 Once the General Terms & Conditions having been duly made available to the Counterparty, the General Terms & Conditions shall continuously be applicable to the integral legal relationship between the Parties, including any subsequent (future) agreements to be concluded between the Parties, unless agreed upon otherwise in writing.
- 2.12 The General Terms & Conditions will integrally replace and supersede any and all earlier version(s) of the general terms and conditions of COLORBLEED as priorly made available to the Counterparty, and/or published on its Website, and/or published and/or deposited otherwise.
- 2.13 COLORBLEED expressly reserves its right to unilaterally amend the General Terms & Conditions from time to time. Non-material amendments can be included and applied at all times, by means of the mere publication thereof on the Website. The Counterparty will be duly informed on any material amendments to the General Terms & Conditions prior to their applicability.
- 2.14 In case of any (substantial) discrepancies between the Dutch text of these General Terms & Conditions and any translation thereof in any other language, the original Dutch text shall prevail at all times.
- 2.15 In these General Terms & Conditions, the term “in writing” shall be deemed to also include email.
- 2.16 These General Terms & Conditions are also available on the Website:
https://colorbleed.nl/storage/files/GeneralTermsConditionsColorbleed_2022.pdf

CLAUSE 3 OFFERS AND/OR QUOTATIONS

- 3.1 All offers and/or quotations of COLORBLEED will be in writing, unless urgency requires otherwise.
- 3.2 All offers and/or quotations of COLORBLEED are legally non-binding. If any offer and/or quotation stipulates any term for acceptance, the offer and/or quotation shall lapse upon expiration of such term.
- 3.3 COLORBLEED shall not be bound to any (part of) an offer and/or quotation that includes any manifest error or mistake.
- 3.4 No legally binding Agreement will enter into force in case the acceptance by the Counterparty either materially or immaterially deviates from the offer and/or quotation from COLORBLEED, unless COLORBLEED indicates otherwise in writing.
- 3.5 Offers and/or quotations shall not automatically apply to any future Agreements and/or (repeat) orders.

CLAUSE 4 AGREEMENT FOR SERVICES

- 4.1 COLORBLEED, being an independent contractor (in Dutch: *opdrachtnemer*), provides its services to its Clients pursuant to an Agreement for Services within the meaning of Section 7:400 et seq.
- 4.2 The Agreement for Services will (in principle) be concluded by means of a written contract confirmation by COLORBLEED, which contract confirmation will (in principle) be first sent after the Counterparty has timely accepted the offer and/or quotation of COLORBLEED in writing. The aforesaid contract confirmation shall (at least) include a description of the services to be rendered; the estimated date on which the services will be completed and/or the estimated date on which the Works will be available to the Counterparty; and the compensation due by the Counterparty to COLORBLEED for the services to be rendered pursuant to the Agreement for Services. The aforesaid contract confirmation, except for any manifest error(s) or mistake(s), shall be legally binding upon both Parties.
- 4.3 An offer and/or quotation will be open for acceptance for a maximum of 30 days from the date of the offer and/or quotation, unless the offer and/or quotation expressly stipulates any other term for acceptance.
- 4.4 COLORBLEED reserves the right to cancel its offer and/or quotation promptly following the acceptance thereof by the Counterparty, as a result of which no Agreement for Services will be concluded.
- 4.5 The Agreement for Services shall also be deemed concluded in case COLORBLEED commenced the provision of its services to (the benefit of) the Counterparty, provided that COLORBLEED could reasonably assume that the Counterparty accepted the offer and/or quotation, even in the absence of any written acceptance by the Counterparty and/or contract confirmation by COLORBLEED.
- 4.6 The Agreement for Services is deemed to reflect a complete and exclusive statement of the mutual understanding between the Parties and supersedes and cancels all previous (written and oral) agreements, communications and other understandings relating to the subject matter of the Agreement for Services, which previous agreements, communications and other understandings will terminate as per the starting date of the Agreement for Services by operation of law.
- 4.7 No changes or additions to this Agreement will be effective unless in writing and signed by both Parties.
- 4.8 The Counterparty acknowledges and agrees that the exact characteristics and features of the Works cannot always be exhaustively determined and/or described in the Agreement of Services, as a result of which it may be that the Works do not always fully correspond to the Counterparty's expectations. In this case, COLORBLEED cannot be required to free of charge modify the Works and/or to re-execute the Agreement for Services without any additional compensation being due by the Counterparty.

CLAUSE 5 TERMINATION OF AGREEMENT

- 5.1 The Agreement for Services cannot be prematurely terminated. The applicability of Section 7:408 Dutch Civil Code is hereby expressly excluded.
- 5.2 Unless otherwise agreed in writing, COLORBLEED reserves the right to prematurely terminate any Agreement with its Supplier, by taking into observance the contractual notice period, or by taking into observance a reasonable notice period of one month in the absence of any contractual notice period.
- 5.3 COLORBLEED and the Counterparty may at all times terminate any Agreement by mutual consent.
- 5.4 In case of bankruptcy (in Dutch: *faillissement*); a moratorium of payment (in Dutch: *surséance van betaling*); guardianship (in Dutch: *curatele*); statutory debt restructuring (in Dutch: *WSNP*); liquidation/winding-up of (the company of) one of the Parties; or the decease of the Counterparty, the other Party shall have the right to promptly terminate the Agreement without observance of any notice period.

CLAUSE 6 AMENDMENTS TO THE AGREEMENT FOR SERVICES

- 6.1 In case it becomes apparent that the proper execution of the Agreement for Services reasonably requires any amendment and/or addition to the Agreement for Services, COLORBLEED shall as soon as possible inform the Counterparty thereof. The Parties shall undertake to duly consult with each other to agree on any amendment and/or addition to the Agreement for Services.
- 6.2 Any amendment and/or addition to the Agreement for Services may affect the date of completion of the services to be rendered pursuant to the Agreement for Services. In this case, COLORBLEED shall as soon as possible notify the Counterparty thereof.

- 6.3 Should any amendment and/or addition to the Agreement for Services entail any changes to the compensation being due to COLORBLEED, and/or the quality and/or quantity of the services to be rendered to the Counterparty, COLORBLEED shall duly notify the Client thereof.
- 6.4 In case the Parties agreed on any fixed fee or fixed price, COLORBLEED shall duly notify the Counterparty to what extent any amendment and/or addition will affect any such fixed fee or fixed price. COLORBLEED shall strive, if and to the extent reasonably possible, to priorly provide the Counterparty with an amended quotation in this respect.
- 6.5 COLORBLEED shall not charge any additional costs in case the amendment and/or addition to the Agreement for Services is a result of any circumstances that are reasonably to be attributed solely to COLORBLEED.
- 6.6 Any amendment and/or addition to the Agreement for Services shall first enter into force upon the Parties having agreed upon such amendment in writing.

CLAUSE 7 EXECUTION OF THE AGREEMENT FOR SERVICES

- 7.1 COLORBLEED shall use its best efforts to duly execute the Agreement for Services in accordance with the requirements of sound professional practice.
- 7.2 COLORBLEED shall have the right to engage third parties in executing the Agreement for Services. The applicability of Sections 7:404; 7:407 sub 2; and 7:409 Dutch Civil Code is hereby expressly excluded.
- 7.3 COLORBLEED has the right to execute the Agreement for Services in stages. In case the Agreement is executed in stages, COLORBLEED shall have the right to separately invoice the Counterparty for each stage. In case and as long as any such outstanding invoice being due and payable remains unpaid, COLORBLEED shall have the right to suspend (in Dutch: *opschorten*) the further execution of the Agreement for Services, or integrally or partly dissolve the Agreement for Services.
- 7.4 In case the Agreement for Services is executed in stages, COLORBLEED shall have the right to suspend the execution of any subsequent stage(s) of the Agreement for Services until the Counterparty has approved in writing the results of any previously completed stage of the Agreement for Services.
- 7.5 The Counterparty shall timely provide COLORBLEED with all information and/or instructions as reasonably required for the proper execution of the Agreement for Services. The Counterparty guarantees that the data carriers by which the Counterparty provides information to COLORBLEED are free of any viruses and/or defects.
- 7.6 COLORBLEED shall have the right to suspend the execution of the Agreement for Services until all required information and/or instructions are provided by the Counterparty. The Counterparty will be charged with any additional costs incurred as a result of any delay in the provision of the required information and/or instructions.

CLAUSE 8 PRICES AND TARIFFS

- 8.1 The compensation due to COLORBLEED by the Counterparty, the honorarium, fees and/or other prices and tariffs are stated in EUR (euro) currency, and exclude VAT (21%) and other taxes and/or levies, and also exclude out-of-pocket costs/expenses, i.e. *inter alia* transport and shipping costs, travel costs, and any further disbursements, unless agreed otherwise in writing.
- 8.2 Unless otherwise agreed, COLORBLEED may at all times require the Counterparty to make a down payment of 50% of the total compensation being due to COLORBLEED, to be paid by the Counterparty prior to COLORBLEED's commencement of the services to be rendered pursuant to the Agreement for Services.
- 8.3 COLORBLEED has the right to increase the compensation being due by the Counterparty and/or other fees, prices and/or tariffs in case of any unforeseen cost-increasing circumstances.
- 8.4 The compensation to be paid by the Counterparty will be determined by the applicable hourly rates of COLORBLEED and the actual time spent by COLORBLEED on rendering the services, unless the Parties expressly agreed upon any fixed fee or fixed price and/or any other pricing in writing.
- 8.5 Prior to concluding the Agreement, if and to extent possible, COLORBLEED shall duly inform the Counterparty on any additional costs to be charged to the Counterparty.

- 8.6 In case COLORBLEED is required to incur any costs in respect of executing the Agreement for Services – inter alia out-of-pocket costs/expenses, including transport and shipping costs, travel costs, and any further disbursements – COLORBLEED may at all times require the Counterparty to pay these costs in advance to COLORBLEED.
- 8.7 COLORBLEED will have the right to require the Counterparty to pay additional compensation in case it wishes COLORBLEED to render its services outside office hours (i.e. between 6.00 pm and 9.00 am), in the weekend, or on bank holidays in the Netherlands.
- 8.8 All fees, prices and/or tariffs may be annually adjusted by COLORBLEED pursuant to the CBS (i.e. Dutch Central Bureau of Statistics) price index, rounded to full euros, without any further notification to the Counterparty being required.

CLAUSE 9 TERMS

- 9.1 Except for payment terms, any term (i.e. time period) stipulated in the Agreement for Services or otherwise will merely be indicative and will never be deemed to be any legally fatal term, unless otherwise agreed upon in writing.
- 9.2 In case COLORBLEED requires information and/or instructions from the Counterparty for executing the Agreement, any term indicated in the Agreement will first commence upon receipt of any and all such information and/or instructions by COLORBLEED.
- 9.3 In case any term is exceeded by COLORBLEED in executing the Agreement, the Counterparty will, in deviation of Section 6:83 Dutch Civil Code, at all times be required to duly provide COLORBLEED with a written notice of default (in Dutch: *ingebrekestelling*) in that respect, by which COLORBLEED is offered a reasonable term to remedy its untimely performance and/or non-performance.

CLAUSE 10 PAYMENT

- 10.1 Payment shall take place by means of bank wire transfer to the designated bank account of COLORBLEED as indicated in the Agreement for Services, unless otherwise agreed upon in writing.
- 10.2 COLORBLEED (in principle) invoices monthly. Payment shall take place within 30 (thirty) days from the date of the invoice, and in the currency indicated in the invoice, unless otherwise agreed upon in writing.
- 10.3 The Counterparty shall not have the right to set off against any invoice amount any (alleged) claim against COLORBLEED.
- 10.4 COLORBLEED and the Counterparty may agree that the payment will be in installments in relation to the progress of the services to be rendered, in which case the Counterparty shall be strictly bound to any payment terms and/or percentages as agreed upon in writing.
- 10.5 Any objections against any invoice shall not suspend the Counterparty's obligation to timely pay the invoice in full.
- 10.6 Upon the lapse of any payment term, the Counterparty will be promptly in default (in Dutch: *verzuim*), in which case COLORBLEED will have the right to instantly (i.e. without any prior notice) initiate any and all extrajudicial collection measures against the Counterparty. The Counterparty will be liable for any and all costs incurred by COLORBLEED for taking the aforesaid measures. The extrajudicial collection costs shall equal 15% (fifteen percent) of the total outstanding invoice amount, unless the actual extrajudicial costs are higher, in which case the actual extrajudicial collection costs will be due. The Counterparty will also be integrally liable for any and all judicial costs, lawyer fees, court fees and further (execution) costs incurred by COLORBLEED. In case the Counterparty is a private individual, the Degree on compensation of extrajudicial costs (in Dutch: *Besluit vergoeding voor buitengerechtelijke incassokosten*) will apply.
- 10.7 The Counterparty will be *de jure* (i.e. by operation of law) in default in case any invoice is not paid within 30 (thirty) from the date of the invoice, without any notice of default and/or any further act being required. In case of default, a compound interest of 1% (one percent) per month on the outstanding invoice amount will be due and payable by the Client, unless the legal interest exceeds 1% per month, in which case the legal interest will be due and payable.
- 10.8 In case of bankruptcy; moratorium of payment; guardianship; statutory debt restructuring (in Dutch: *WSNP*); or liquidation and/or winding-up of (the company of) the Counterparty, any and all unpaid invoice amounts and/or further claims will be immediately due and payable by the Counterparty.

- 10.9 COLORBLEED shall at all times have the right to set off against any payable and/or non-payable (contingent) claim of any Counterparty against COLORBLEED and/or its (sub)contractors, any payable and/or non-payable (contingent) claim of COLORBLEED or its (sub)contractors against the Counterparty. Claims in any foreign currency will be set off pursuant to the exchange rate of the day of the set-off.
- 10.10 Any payments by the Counterparty are deemed to apply consecutively to:
- a. any interest and (extrajudicial collection) costs being due; and
 - b. the longest outstanding invoice.

CLAUSE 11 SUSPENSION OF AGREEMENT

- 11.1 In case the Counterparty does not, not fully or not timely comply with any of its obligations under the Agreement, COLORBLEED will have the right to fully or partially suspend (in Dutch: *opschorten*) the execution of the Agreement
- 11.2 COLORBLEED also has the right to suspend the execution of the Agreement in case:
- Following the conclusion of any Agreement, COLORBLEED becomes aware of circumstances, which gives it good grounds to fear that the Counterparty will not comply with its contractual obligations;
 - The Counterparty was asked to offer security when the Agreement was concluded to secure compliance with its financial obligations under the Agreement, which security was not provided or is inadequate;
 - There are any circumstances as a result of which COLORBLEED will no longer be able to execute the Agreement and/or cannot be reasonably required to execute the Agreement without any amendment(s) thereto.
- 11.3 COLORBLEED reserves its rights to claim for damages in case of any suspension.

CLAUSE 12 DISSOLUTION OF AGREEMENT

- 12.1 In case the Counterparty does not, not fully, or not timely comply with any of its obligations under the Agreement, COLORBLEED will have the right to fully or partially dissolve (in Dutch: *ontbinden*) the Agreement with immediate effect and without any notice of default being required.
- 12.2 COLORBLEED will also have the right to immediately dissolve the Agreement in case:
- Following the conclusion of any Agreement, COLORBLEED becomes aware of circumstances, which gives it good grounds to fear that the Counterparty will not comply with its contractual obligations;
 - The Counterparty was asked to offer security when the Agreement was concluded to secure compliance with its financial obligations under the Agreement, which security was not provided or is inadequate;
 - As a result of any delay to be attributed to the Counterparty, COLORBLEED can no longer be reasonably required to execute the Agreement under the initially agreed upon terms;
 - There are any circumstances as a result of which COLORBLEED will no longer be able to execute the Agreement and/or cannot be reasonably required to execute the Agreement without any amendment(s) thereto;
 - Bankruptcy, moratorium of payment, guardianship, statutory debt restructuring (in Dutch: *WSNP*), liquidation and/or winding-up of (the company of) the Counterparty; and/or seizure of the Counterparty's assets or part thereof;
 - more than 50% of the shares in the company of the Counterparty are transferred to any third party;
 - of death of the Counterparty.
- 12.3 Dissolution of the Agreement will be effected by means of a written notice, without any court intervention being required.
- 12.4 In case of dissolution, any outstanding invoice amounts and/or other claims against the Counterparty will be immediately due and payable to COLORBLEED.
- 12.5 In case of dissolution, COLORBLEED will not in any way be liable for damages and/or not be under the obligation to compensate the Counterparty for any costs whatsoever.
- 12.6 In case of dissolution attributable to the Counterparty, COLORBLEED shall have the right to claim for any and all damages related to the dissolution.

CLAUSE 13 CONTINUING PERFORMANCE AGREEMENTS

- 13.1 A Continuing Performance Agreement may only be terminated as per the end date as agreed upon and by taking into observance the applicable notice period.

- 13.2 A notice period of one month will apply to any Continuing Performance Agreement having a term of less than 6 months, unless expressly otherwise agreed upon by the Parties. A notice period of two months will apply to any Continuing Performance Agreement having a term of 6 months or more, unless expressly otherwise agreed upon by the Parties.
- 13.3 In the absence of any timely notice of termination, the Continuing Performance Agreement will be extended by the term as initially agreed upon.

CLAUSE 14 INTELLECTUAL PROPERTY

- 14.1 Any and all intellectual and industrial property rights pertaining to the Works created/developed/designed for and/or to the benefit of the Counterparty and/or made available by COLORBLEED to the Counterparty pursuant to an Agreement for Services – including but not limited to: film works; photographic works; works of applied art or design; drawings and models; computer code and software; as well as (verbal and written) advices, pitches and presentations; designs and sketches; documentation and reports; and any offers and/or quotations of COLORBLEED; as well as any and all preparatory materials; and including any and all copies and translations thereof – are held and/or owned by and/or belong to COLORBLEED or its licensors. Any deviation from the aforesaid is merely legally valid in case such deviation has been expressly agreed upon in writing with COLORBLEED, and such deviation merely pertains to the Works and/or rights as expressly mentioned in the Agreement for Services.
- 14.2 COLORBLEED will at all times have the right to register the aforesaid intellectual property rights in its own name. If and as required, the Counterparty undertakes to fully cooperate in this respect, including but not limited to granting full (written) permission thereto.
- 14.3 In respect of the Works, the Counterparty is merely granted the user rights and powers as specifically mentioned in the Agreement for Services, or as otherwise expressly agreed upon in writing, e.g. by License Agreement.
- 14.4 Unless otherwise expressly agreed upon in writing, the Counterparty will in respect of any Work merely be granted a user right by means of license for the duration of 1 (one) year, valid only in the Netherlands. The aforesaid user right shall be limited to the purposes as set out in the Agreement for Services and/or License Agreement.
- 14.5 Without prior written permission thereto of COLORBLEED, the Counterparty shall not have the right to amend, modify, and make additions to any Work.
- 14.6 Unless otherwise expressly agreed upon in writing, the Counterparty shall not reproduce or duplicate (in Dutch: *verveelvoudigen*) the Works.
- 14.7 Unless otherwise expressly agreed upon in writing, the Counterparty may first exercise the aforesaid user rights and/or powers upon full settlement of any and all amounts being due to COLORBLEED and full compliance with its further obligations.
- 14.8 The Counterparty will not have the right to exploit or (re-)use the Works in any other way than expressly stipulated in the Agreement for Services and/or License Agreement and unambiguously arises from the scope of the user rights and powers as laid down therein.
- 14.9 The Counterparty shall not have the right to remove from the Works and/or alter any references or denotations pertaining to any copy rights, trade marks, brands, trade names or other intellectual property rights, including any references or denotations pertaining to the confidential nature of the Works and the thereto related duty of confidentiality, nor have any third party perform such acts.
- 14.10 COLORBLEED may take or implement technical measures in order to protect the Works. In case any Work is technically protected, the Counterparty may not at any time remove or circumvent such technical protection, nor have any third party perform such acts.
- 14.11 Any use, reproduction, duplication or publication of the Works that falls outside of the scope of the user rights and/or powers as laid down in the Agreement for Services and/or License Agreement, will qualify as a breach of copy rights as well as a breach of contract (in Dutch: *wanprestatie*), pursuant to which COLORBLEED will have the right to claim for damages and/or to dissolve the Agreement and/or to revoke and/or terminate the license granted by any License Agreement, without any compensation being due to the Counterparty.

- 14.12 In case the Agreement for Services (also) pertains to the creation of any Work(s), the Parties shall specify in the Agreement for Services which Work(s) will be created, and the way in which the Work(s) will be created, which specifications will at all times be leading. COLORBLEED will create the Work(s) based on the information provided by the Counterparty, by duly observing its duty of professional care. The Counterparty guarantees that the information provided to COLORBLEED will be correct, complete and consistent.
- 14.13 COLORBLEED will have the right, but will not be under any obligation, to verify whether the information and/or specifications as provided by the Counterparty are correct, complete and consistent. In case of any inconsistencies, COLORBLEED shall have the right to suspend the performance of its services until any such inconsistencies are remedied by the Counterparty.
- 14.14 The Counterparty will not be allowed to sell, (sub)license and/or otherwise make available the Work(s), including any copies or translations thereof, to any third party, unless COLORBLEED expressly consented thereto in writing.
- 14.15 In respect of the creation of any Work(s) for the Counterparty, COLORBLEED will have the right to make use of software, computer code, and components of third parties, including open source software. The use of the aforesaid software, computer code, and components of third parties, including open source software, will merely be governed by the terms as laid down in the applicable licenses of these third parties. COLORBLEED will not in any way be liable for any possible changes to the terms of use as laid down in these licenses. The Counterparty shall at all times duly adhere to any and all terms as laid down in the licenses of any third parties, which the Counterparty hereby guarantees to COLORBLEED.
- 14.16 Subject to the stipulations as laid down in this Clause 14, the Counterparty will merely be granted a user right in respect of the Work(s) created by COLORBLEED. The Counterparty shall at all times duly adhere to any and all restrictions of use as agreed upon by the Parties. Any user right pertaining to any Work(s) cannot be assigned by the Counterparty to any third party.
- 14.17 The Counterparty hereby declares and guarantees that COLORBLEED does not infringe any intellectual property rights of any third parties by creating the Work(s) for and/or to the benefit of the Counterparty. The Counterparty will indemnify COLORBLEED from any claims of third parties in this respect. The Counterparty acknowledges and agrees that COLORBLEED will not examine whether any third parties may invoke any intellectual property rights in respect of the Works to be created, and that this expressly falls outside of the scope of COLORBLEED's services to be provided pursuant to any Agreement for Services.
- 14.18 COLORBLEED will at all times have the right to use the Works (and everything related thereto, including the knowledge obtained by COLORBLEED while creating the Works), whether in their original form or amended, for any commercial (including promotional) purposes, whereby COLORBLEED undertakes to duly observe the Counterparty's user rights and the confidentiality.
- 14.19 For any breach of the stipulations laid down in this Clause 14, the Counterparty will owe to COLORBLEED an immediately due and payable penalty fine of EUR 25,000 (in words: twenty five thousand euro), to be increased by EUR 1,000 (in words: one thousand euro) for any day such breach continues to exist, which penalties will not be subject to mitigation and/or set-off, notwithstanding COLORBLEED's right to claim full damages and/or to demand full compliance with any and obligations pursuant to the Agreement for Services and/or the License Agreement and/or these General Terms & Conditions. COLORBLEED reserves its right to take any possible legal measures against the Counterparty in order to terminate any such breach.

CLAUSE 15 EXERCISE OF USER RIGHTS / RETENTION OF TITLE

- 15.1 Only after the Counterparty has duly settled any and all amounts due to COLORBLEED and has fully complied with any and all (further) obligations under the Agreement for Services and/or License Agreement, the Counterparty will be entitled to exercise the (user) rights (to be) granted by COLORBLEED to the Counterparty.
- 15.2 The term "amounts" as referred to under Clause 15.1 above, also includes any interest, any further (collection) costs (or otherwise) and/or other claims against the Counterparty pursuant to the Agreement for Services and/or License Agreement.
- 15.3 Unless expressly agreed upon in writing by the Parties, COLORBLEED will never transfer the intellectual property rights and/or legal ownership of the Works to the Counterparty pursuant to an Agreement for Services and/or License Agreement: COLORBLEED merely grants a user right pertaining to the Works. Only if and as far as the Parties expressly agreed in writing that the intellectual property rights and/or legal ownership of the Works shall be transferred to the Counterparty, a retention of title will apply, pursuant to which the intellectual property rights and/or legal ownership of the Works will be first transferred to the Counterparty after the Counterparty has duly settled any and all amounts due to COLORBLEED and has fully complied with any and all (further) obligations under any Agreement.

CLAUSE 16 LIABILITY

- 16.1 COLORBLEED will merely be liable for any direct damage that can be legally attributed to COLORBLEED.
- 16.2 COLORBLEED will in no event be liable for any indirect damage incurred by the Counterparty, including but not limited to: consequential damages, lost profits, lost savings, business interruptions, or immaterial damage, including damage to reputation.
- 16.3 To the extent permitted by law, COLORBLEED does not accept and/or assume any liability for any damages whatsoever caused by any third parties involved by COLORBLEED in respect of the execution of the Agreement for Services.
- 16.4 COLORBLEED will not be liable for any damages whatsoever as a result of COLORBLEED relying on any incorrect and/or incomplete information provided by the Counterparty.
- 16.5 Any liability of COLORBLEED towards the Counterparty for damages relating to its services shall in any case and at all times be limited to the total amount paid by the Counterparty to COLORBLEED for the services to which the damages directly relate.
- 16.6 The Counterparty will be required to duly inform COLORBLEED on any (alleged) claim for damages, to be accompanied by a substantiation thereof, within 1 (one) month of the date on which the Counterparty became or should have reasonably become aware of the damages, in the absence of which any claim for damages will lapse.
- 16.7 In deviation of any statutory limitation period, any claim against COLORBLEED and/or against any (sub)contractors involved by COLORBLEED shall lapse after 1 (one) year from the date on which the loss or damage has occurred.
- 16.8 The Counterparty indemnifies COLORBLEED from any and all claims of third parties, who incurred damage as a result of the execution of the Agreement for Services and/or License Agreement, provided that this damage cannot be legally attributed to COLORBLEED. In case COLORBLEED is held liable by any third parties, the Counterparty shall duly provide any and all assistance to COLORBLEED in and out of court.
- 16.9 COLORBLEED makes use of so-called on premise data storage, which means that all data are solely stored on COLORBLEED's own server(s) at its own premises. COLORBLEED undertakes to keep, to control and to protect these data as may be reasonably required from a competent data controller, and implements any and all security measures required by law for the protection against the loss and/or misuse by any third parties of these data as a result of technical malfunctions/defects, human errors and/or (cyber)crime. However, COLORBLEED cannot guarantee the data security of these data, and therefore does not accept/assume any liability for the loss and/or misuse by third parties of these data.

CLAUSE 17 FORCE MAJEURE

- 17.1 Any non-performance cannot be legally attributed to COLORBLEED in case COLORBLEED is not to blame for the non-performance, nor accountable for it by virtue of law, a legal act or generally accepted principles.
- 17.2 In addition to the statutory stipulations in this respect, "force majeure" within the meaning of these General Terms & Conditions is defined as any and all external causes and/or circumstances, foreseen or unforeseen, which COLORBLEED cannot influence, but which prevent COLORBLEED to duly perform its obligations.
- 17.3 Force majeure includes but is not limited to the following circumstances: epidemics and pandemics (including but not limited to corona virus); business interruptions and strikes; lockouts and lockdowns; fire; water damage; natural disasters or other contingencies from outside, mobilization; war; traffic obstructions; blockades; import and export restrictions or other restricting government measures; shortage or delay in delivery of raw materials, machine parts or other (software) components; shortage of work force; defects and/or (temporary) unavailability of any relevant company/industry specific hardware; as well as any further circumstances that interrupt the normal business of COLORBLEED, as a result of which COLORBLEED cannot be reasonably required by the Counterparty to execute the Agreement.
- 17.4 COLORBLEED also has the right to invoke force majeure in case this relates to any circumstance that prevents COLORBLEED to perform its obligations, even if such circumstance first occurred after COLORBLEED was already in default.

- 17.5 In case of force majeure, COLORBLEED will not be required to (further) execute the Agreement, without any compensation being due by COLORBLEED to the Counterparty.
- 17.6 COLORBLEED has the right to fully or partially suspend the performance of its obligations pursuant to the Agreement for the duration of the force majeure. In case the duration of force majeure is longer than two months, both Parties will have the right to terminate the Agreement with immediate effect by written notice thereto, without any court intervention being required, and without any compensation being due to the other Party.
- 17.7 In the event of temporary force majeure, COLORBLEED reserves its right to suspend the performance of its obligations for the duration of the force majeure. In the event of permanent force majeure, both Parties will have the right to instantly terminate the Agreement with immediate effect.
- 17.8 In case COLORBLEED already partly executed, or will be able to partly execute, the Agreement for Services after the event of force majeure occurred, COLORBLEED will have the right to invoice the Counterparty for any partial execution of the Agreement of Services, provided that this partial execution represents an independent economic value on its own. The Counterparty will be required to duly settle any such invoice, as if there were to be concluded a separate Agreement for Services between the Parties pertaining to this partial execution.

CLAUSE 18 THE COUNTERPARTY'S DUTY TO EXAMINE AND DUTY TO INFORM

- 18.1 Upon (notification of) the completion of the services to be provided by COLORBLEED and/or upon the Works having been made available to the Counterparty, the Counterparty will be required to promptly examine whether the services have indeed been completed and/or the quality and quantity of the Works being made available correspond to the Agreement for Services.
- 18.2 In case of any visible shortcomings, the Counterparty will be required to duly notify COLORBLEED thereof in writing within 30 days from the completion of the services and/or the Works became available to the Counterparty, subject to forfeiture of rights. The aforesaid also applies to any shortcomings that were not visible to the Counterparty, but reasonably should have been visible to the Counterparty. Any shortcomings being non-visible upon completion of the services or availability of the Works are required to be reported in writing to COLORBLEED within 30 days from the date on which the Counterparty discovered, or reasonably should have discovered, these shortcomings, subject to forfeiture of rights. Upon the lapse of one year from the completion of the services and/or the availability of the Works, all services and Works are deemed to be fully in accordance with the Agreement for Services. Any notification and/or complaints are to be accompanied by a detailed substantiation of the alleged shortcoming, subject to forfeiture of rights.
- 18.3 In case of any timely notification and/or complaint, the Counterparty will not have the right to suspend its payment obligations pursuant to the Agreement for Services.
- 18.4 In case of any non-timely notification and/or complaint, the Counterparty will not have the right to demand any remedy, replacement or compensation.
- 18.5 In case it is established that any service or Work is faulty and COLORBLEED was duly and timely notified thereof, COLORBLEED undertakes to replace, remedy, or compensate such faulty service or Work within a reasonable term from the date on which COLORBLEED was notified thereof in writing, provided that such faulty service or Work can be legally attributed to COLORBLEED.
- 18.6 In case it is established that a complaint is unfounded, the Counterparty will be required to compensate COLORBLEED for any (research) costs it incurred and/or any time spent in this respect.

CLAUSE 19 CONFIDENTIALITY

- 19.1 COLORBLEED and the Counterparty will strictly adhere to a duty of confidentiality in respect of any and all information which is deemed to be confidential, unless any Party is required to disclose such information by virtue of law. Confidential information includes but is not limited to any and all business information, financial information and technical information.
- 19.2 The Counterparty will not disclose to any third parties the contents of any Agreements, and offers and/or quotations, reports, advices and/or verbal or written statements from COLORBLEED.

CLAUSE 20 PRIVACY

- 20.1 COLORBLEED will at all times keep, protect and process any and all personal data of the Counterparty in accordance with the applicable legislation ((including but not limited to the General Data Protection Regulation). The Counterparty hereby expressly agrees to the processing of these personal data by or on behalf of COLORBLEED in as far is necessary for the due execution of an Agreement.
- 20.2 The Counterparty will at all times keep, protect and process the personal data of COLORBLEED (including the personal data relating to its employees, directors, shareholders and independent contractors) in accordance with the applicable legislation (including but not limited to the General Data Protection Regulation).

CLAUSE 21 CONTACT

In case of any questions and/or comments or complaints, the Counterparty may contact COLORBLEED as follows:

- Per email: info@colorbleed.nl;
- Per telephone: +31 (0)30 30 31 386; and/or
- Per post: Colorbleed B.V., attn. Mr. T. Hankins, Maliesingel 24 A, 3581 BG, Utrecht, the Netherlands.

CLAUSE 22 APPLICABLE LAW AND COMPETENT COURT

Any and all Agreements and/or other legal relationships between the Parties will be exclusively governed by and construed in accordance with the laws of the Netherlands. Any and all disputes arising from or relating to any Agreement and/or other legal relationship between the Parties will be submitted to the exclusively competent district court of Utrecht, the Netherlands, unless mandatory law stipulates otherwise.

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