

Specimen additional conditions governing intellectual property rights

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bno

Beroepsorganisatie
Nederlandse Ontwerpers

Explanation

These Additional Conditions may be used for specific arrangements on intellectual property rights when an agreement is concluded. They include a provision on the transfer of rights and a provision that regulates the licence in more detail.

These Additional Conditions are additions to and derogations of the BNO's 2013 General Conditions and it is therefore advisable to expressly include them, insofar as relevant and desired, in any offer in which the BNO's 2013 General Conditions are declared applicable.

NB 1: The fees have yet to be filled in. They may be included in the remuneration.

NB 2: Article 1.6 is included as an extra option: the client acquires the rights, but commits itself to a cooperation of a number of years. If it wishes to switch to a different design agency before the end of that term, a lump sum is due, the amount of which decreases pro rata to the length of the cooperation. After payment of that lump sum, the client is free to switch or itself to use the results.

NB 3: Separate specimen agreements are available to regulate a more extensive transfer or licence.

Specimen text:

The following provisions apply in derogation of or in addition to the BNO (2013) General Conditions, which govern this offer, a copy of which is enclosed with this offer [or: was sent to you previously].

1 Intellectual property rights (transfer)

- 1.1 The parties agree that, in accordance with Article 4.2, the rights in respect of the results of the assignment will be transferred to the client. In this regard the transfer:
 - a. takes place the moment the assignment has been completed in its entirety;
 - b. takes place when the client has performed all its financial and other obligations;
 - c. relates only to the final results and only insofar as they have been realised by the Designer himself/herself; and
 - d. takes place subject to the rights that are customarily exercised by collective rights organisations such as Pictoright, Lira, BUMA/Stemra and VEVAM, insofar as applicable.
- 1.2 In derogation of Article 4.1, the client has the right in its own name to create other intellectual property rights, whereby the Designer will be named as the designer to the extent possible.
- 1.3 The Designer will cooperate if necessary in drawing up any deed required for the transfer.
- 1.4 The Designer will transfer the necessary files at the client's request. A separate offer will be given for that purpose.
- 1.5 The client owes a fee for the transfer of rights referred to in paragraph 1.1:
Option 1: an amount of €XX (excl. VAT)
Option 2: the fee is included in the remuneration.

Optional:

1.6 If the client itself wishes to change or develop the results in respect of which the rights have been transferred, or wishes to have that done by a third party, without any further involvement on the part of the Designer, the following lump sums are due:

- within X years after the conclusion of the agreement: an amount of €XX
- within Y years after the conclusion of the agreement: an amount of €X

After Z years, the client is free without any restrictions to use the results in respect of which the rights have been transferred.

ALTERNATIVE:

1 Intellectual property rights (licence)

- 1.1 In addition to Article 5.1, the client gives permission to use the results of the assignment:
.....
.....
(fill in: medium, period, countries and whether or not this can be done/used by affiliated organisations)
- 1.2 The licence [is/is not] exclusive.
- 1.3 In the event of infringement of the rights in respect of the results vested in the designer, if so desired and in order to protect and enforce in relation to third parties the rights vested in the client under this agreement, the designer will authorise the client to exercise the rights based on its copyright and for that purpose, at its own expense and in the designer's name, to take action both in and out of court. The parties will provide each other with all the information required when any measures to this end are taken.

Optional:

- 1.3 In derogation of Article 4.1 the client has the right to create other intellectual property rights in its own name, whereby the Designer will be named as the designer to the extent possible.

Although this specimen has been drafted with the utmost care, BNO accepts no responsibility for harm or loss of any kind whatsoever that might arise from any defect in the terms of this specimen or from its use.