

## **General terms and conditions Faunabit B.V.**

Faunabit B.V. (hereinafter: Faunabit) is registered at the Dutch Chamber of Commerce with number 73529567 and is located at Strijkviertel 26 back (3454 PM) in De Meern (the Netherlands).

### **Article 1 – Applicability and offers**

1.1 These terms and conditions are applicable to all offers from and every agreement with Faunabit and to all legal relationships formed in this context (hereinafter: Agreement). Any deviations of these terms and conditions can only be agreed upon in writing.

1.2 All offers from Faunabit are non-binding and must be accepted within 15 days, unless explicitly agreed upon otherwise. Faunabit is always allowed to change or withdraw the offer. Delivery times and terms in the offer are never fatal and always non-committal.

### **Article 2 – Formation and execution of the Agreement**

2.1 The Agreement is formed when agreed upon in writing and confirmed by Faunabit. Counterparty has no right to revocation.

2.2 Faunabit only constitutes best efforts obligations, unless explicitly decided otherwise. In case there is any obligation of results, this will only apply to the delivery of the machine, but never to the operation of the machine. Faunabit will give its best efforts and care in executing the agreement.

2.3 Faunabit reserves the right to have work carried out by third parties.

2.4 Faunabit makes agreements based on recent and necessary information provided by the Counterparty. Faunabit assumes accuracy of the information provided by the Counterparty and will not be liable for faults based on wrongful information provided by Counterparty. Damages or extra costs as a result of wrongful information will be borne by Counterparty.

### **Article 3 – Prices and invoicing**

3.1 Unless otherwise agreed upon in the Agreement, prices are excluding VAT.

3.2 Faunabit will inform Counterparty as soon as possible about additional costs in case of any additional and/or other work.

3.3 Faunabit reserves the right to annually index the prices based on the CBS price index. This must be done in writing and subject to three months' notice in advance.

3.4 Faunabit can have variable prices for products and/or materials that are subject to price fluctuations on the market. When variable prices are offered, Faunabit explicitly states in the offer that these recommended prices may fluctuate.

3.5 Prior to performing any works, Faunabit will send an invoice to Counterparty, which must be paid within thirty (30) days after the invoice date and before Faunabit performs any work. From the thirty-first day Counterparty must pay statutory commercial interest. Lease amounts must be paid in terms as determined per agreement. Any objections to invoices must be made in writing within the payment term. Objections and/or complaints do not suspend the payment obligation.

3.6 Faunabit is allowed to ask Counterparty for financial securities. Payments must be done in EURO and transferred to a bank account appointed by Faunabit.

3.7 Faunabit reserves the right to suspend works when payments are not made timely. Faunabit is allowed to require an advance to a payment and/or cancel an assignment in any case she deems necessary.

3.8 Only Counterparty can pay with discharging effect to Faunabit. Counterparty is not allowed to set-off invoices or claims for any reason whatsoever.

### **Article 4 – Delivery and transport**

4.1 Faunabit may charge extra costs for delivery- and/or transportation. These costs are charged excluding VAT. Costs for transportation and delivery to the main location of Counterparty (that must be accessible for transport by paved roads) are included in the price. Placement is at the expense and risk of Counterparty.

4.2 Delivery terms are indicative. Faunabit is allowed to extend delivery terms if she deems necessary on reasonable grounds. Counterparty may never suspend payment, claim damages and/or dissolve on the count of extended delivery term.

4.3 Faunabit reserves the right to refuse delivery in case of well-founded fear for non-payment.

4.4 Faunabit shall package and secure the products to reasonable standards, so the products will be in good condition at time of delivery. Risk of loss or damage of the product will pass to Counterparty as soon as the products leave Faunabit's property.

4.5 Accepting the product without comments and/or complaints to the freight letter or receipt is considered evidence that the product was in good condition at time of delivery.

4.6 Counterparty must investigate the quality and quantity of the products within thirty (30) days after receiving the products. Visible faults must be reported to [info@Faunabit.eu](mailto:info@Faunabit.eu). Invisible faults and/or flaws must be reported within 6 months after delivery. In case of failure to report a fault and/or flaw, Faunabit is not liable for this fault and/or flaw. Counterparty has no right to suspend and/or set off payments in case of any faults. Faunabit will investigate the faults/flaws and provide a solution for the fault/flaw; either repair or take back and refund.

4.7 If a fault and/or flaw is caused by negligence of Counterparty, Counterparty will be liable for depreciation of the product. Counterparty is not allowed to make any adjustments to the product unless permission in writing is given.

### **Article 5 – Retention of title**

5.1 All products of Faunabit are delivered under retention of title until counterparty fulfills the obligations of the Agreement.

5.2 Counterparty is not allowed to pledge or otherwise encumber the products delivered under retention of title. In case of garnishment, counterparty will immediately notify Faunabit.

5.3 In case Faunabit wants to exercise ownership, Counterparty will grant Faunabit unconditional and irrevocable permission and authorization to access the location where Faunabit's property is and allow Faunabit to take the property back.



#### **Article 6- Warranties**

6.1 In case of purchase Faunabit offers one (1) year manufacturer warranty on products.

6.2 Counterparty can invoke this warranty after fulfilment of her payment obligations.

6.3 If a warranty appeal is granted, Faunabit is obliged to repair or replace the product without costs. In case of additional damages, article 7 will be applicable.

6.4 Warranty will expire in case Counterparty adjusts the products and/or misuses the product and/or fails proper maintenance.

#### **Article 7 Liability**

7.1 Faunabit is not liable for damages that derive from vandalism, c.q. wrongful use c.q. violence. Faunabit is also not liable for consequential damages, indirect damages, loss of profit and/or lost savings.

7.2 If Faunabit is found liable, then liability is always limited to the amount that the insurer acknowledges and pays out, multiplied with the deductible excess of Faunabit. A series of related occurrences will be regarded as one occurrence.

7.3 In case insurance does not disburse for any reason whatsoever, Faunabit's liability is limited to the invoice amount.

7.4 These limitations of liability are not applicable in case of gross negligence and/or fault.

7.5 In case of liability for damages caused by a default in the product, this liability is limited to the amount compensated by the liability insurance.

7.6 Potential claims for damages must be made within 14 days after existence of the damages. If a claim is not made within this period, the claim expires.

7.7 Parties will take actions that may reasonably be expected to prevent or limit damages.

7.8 This article is also applicable to Faunabit staff and/ or third parties that Faunabit includes in the execution of the Agreement.

7.9 Counterparty indemnifies Faunabit for potential claims of third parties that incur damages due to execution of the agreement and which actions are attributable to counterparty.

#### **Article 8 – Force Majeure**

8.1 Faunabit is not liable for any Force Majeure. Following situations are in any case considered force majeure: (i) Force Majeure of Faunabit's suppliers, (ii) failure to perform from suppliers recommended by Counterparty to Faunabit, (iii) defective goods, equipment, software or materials of third parties, (iv) government measures, (v) power outage, (vi) malfunction of internet, data network- and telecommunication activities (for example by: cyber criminality and hacking), (vii) natural disasters (viii) war and terrorist attacks, (ix) general transportation issues, (x) strikes within Faunabit and (xi) other situations that fall outside the influence of Faunabit that prevent compliance to the Agreement either temporarily or permanent.

8.2 Parties may suspend their obligations during the time of Force Majeure. In case the Force Majeure lasts longer than two

months, parties are allowed to dissolve the agreement without obligation to compensate damages to the other Party.

8.3 Faunabit reserves the right to invoice the part of the Agreement that Faunabit will be able to execute and/or has already executed before and/or during the Force Majeure. Counterparty is obliged to pay this invoice.

#### **Article 9 – Additional clauses lease**

9.1 Lease agreements are entered into for a fix period of time (3 years), unless otherwise determined in writing. The Lease agreement ends automatically but may be prolonged with a period of 1 year in case Parties agree to do so. Upon termination of the lease agreement Counterparty loses the right to use the products and Faunabit then reserves the right to claim the products. Products must be returned brushed clean and ready to use.

9.2 In case of premature termination of the Lease agreement, Counterparty is obliged to pay Faunabit for the products. The payment amounts 100% of the product value for termination within a year, 75% of the product value for termination after 1 year but before 2 years, 50% of the product value after 2 years and 25% of the product value after 3 years (in case of prolongation). These payments must be multiplied by data- and service costs that would be charged during the duration of the lease agreement. Counterparty is not allowed to return products without Faunabit's permission.

9.3 Counterparty is obliged to behave as a responsible user of the products. Subletting is not allowed, unless otherwise agreed upon in writing. Responsible user means (amongst other things a) no nuisance or disturbance for Faunabit, environment and/or neighbors; b) no damage to the environment in any way whatsoever, such as emissions or soil-, groundwater-, surface water-, or air pollution; c) taking timely and appropriate action to prevent damage due to frost, rainfall, storm, other weather conditions, short circuit, fire, leakage, etc.) have an appropriate insurance and/or guarantee costs; e) charge the products periodically and store with a full battery to increase lifetime; f) provide Faunabit with requested information; g) update Faunabit on changed circumstances; h) Follow Faunabit's instructions concerning use, maintenance and repair; i) in case persons are filmed in the direct environment, make sure these persons are notified; j) follow laws and regulations concerning the use of the products.

9.4 Faunabit will be lessor to the best of her abilities and is obliged to lease products to counterparty in good conditions and without visible defects. Faunabit is obliged to repair defects unless this is impossible or if the costs of repair cannot reasonably be made by Faunabit.

9.5 Counterparty is responsible for any permits and /or exemptions needed for the product. Failure to possess permits and/or exemptions is not grounds for dissolution of the agreement and is for Counterparty's risk and expense.



9.6 In so far products are stored in Counterparty's location, the maintenance of the battery and cleaning the products is at the account of Counterparty. Faunabit will explain the battery maintenance. Faunabit reserves the right to charge extra costs in case Counterparty wishes to store the products at Faunabit outside regular storage period (winter storage).

#### **Article 10 – Maintenance and liability by lease**

10.1 Every damage and/or loss must be immediately reported to Faunabit, within 24 hours of discovery of the damage. For liability see article 7.

10.2 Counterparty is liable and indemnifies Faunabit for: a) Damage by loss; b) Damages not compensated by insurance; c) damages due to irresponsible and careless actions.

10.3 Counterparty checks the products for maintenance regularly. Maintenance-, malfunction- and repair will only be done by Faunabit or by an approved third party. Small maintenance may be done by Counterparty with Faunabit's consent.

10.4 Faunabit is allowed to do preventive maintenance, alter the product and/or remedy malfunctions.

10.5 Counterparty is obliged to perform (small) periodic maintenance (such as reboot, clear screen, clean, etc.) in accordance with factory specifications and predetermined procedures. Counterparty is responsible for the proper functioning of parts that are not purchased by Faunabit.

10.6 Faunabit is responsible for replacing parts, unless the parts cost less than € 50,00 per calendar year, in which case Counterparty is responsible.

10.7 Both parties are allowed to correct hazardous situations. In case this is not done in good consultation between parties, Faunabit is allowed to correct the situation herself using her own professional methods.

10.8 Corrective maintenance is done by Faunabit. Corrective maintenance is: a) track and repair malfunctions; b) repairs/adjustments that are deemed necessary in periodic maintenance; c) Work as a consequence of wear and tear due to normal usage. Corrective maintenance is done remote, unless this is impossible in which case Faunabit will attend the location (if this location is reachable by transport). Remote might mean support via phone and/or sending parts to Counterparty to ensure corrective maintenance can be done. Counterparty is responsible for following Faunabit's instructions.

10.9 Faunabit is allowed to charge travel- and work hours and travel costs to Counterparty in case of maintenance in accordance with the pricelist that is added to the Agreement. Appointments may be cancelled without charge up to 7 days before the appointment. After 7 days, Faunabit is allowed to charge costs to Counterparty.

10.10 When Counterparty does not complain about the maintenance within 7 days after the maintenance is performed, then the maintenance is approved by Counterparty. Release of the products is under responsibility of the counterparty.

10.11 Periodic maintenance is done at normal business days between 09.00 and 18.00hour. Execution of maintenance outside these hours may result in additional costs.

10.12 For maintenance these follow-up times are applicable (measured from moment of notice): a) Imperative malfunctions: within 24 hours of notice; b) Calamities: immediately after notice to limit damages; c) Regular malfunction maintenance: as soon as possible, target time within 48 hours, but this might not always be the case (with the exception of Saturday, Sunday and holidays). Faunabit will notify Counterparty in case these follow-up times are not met.

10.13 When reporting a malfunction and/or repair, Counterparty will report: a) date of the malfunction; b) description and if possible, the code; c) defect parts; d) serial number.

#### **Article 11 – Other**

11.1 Counterparty and Faunabit may terminate the entire agreement and/or part of the agreement without notice in case one of the parties' files for suspension of payment and/or files for bankruptcy and/or is liquidated. In case this situation unfolds, Faunabit is not obliged to refund any payments and/or compensation of damages.

11.2 Parties shall cooperate in usage of Intellectual Property in so far this is required for the execution of the Agreement. Counterparty acknowledges and respects the IP of Faunabit and makes no claim towards the IP of Faunabit.

11.3 Counterparty is obliged to keep confidential information of Faunabit confidential.

11.4 Faunabit adheres to the GDPR concerning execution of the agreement and therefor only processes personal data necessary for the execution of the agreement. Counterparty is required to maintain the standards of the GDPR and shares its privacy policy with Faunabit if Faunabit asks for it.

11.5 Faunabit is allowed to unilaterally alter these terms and conditions. Faunabit will notify Counterparty as such with one month notice.

11.6 Counterparty is allowed to make a complaint about the products of Faunabit. These complaints must be done as soon as possible but within 14 (fourteen) days of discovery of the complaint through [info@faunabit.eu](mailto:info@faunabit.eu).

11.7 These Terms and Conditions are in Dutch and in English. In case of disputes, the Dutch version is leading.

#### **Article 12 – Applicable law and forum choice**

12.1 Dutch law is applicable to all Agreements with Faunabit.

12.2 In case of disputes, Parties will turn to the competent Dutch Court of law in Utrecht.

