



**ORNAMO**

**Design Agreement**

## 1. PARTIES

This License Agreement (hereinafter the "Agreement"), dated [date] is made between

The Licensee:

[Name]

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with business ID,

[Business ID]

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with its principal place of business at

[Address]

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(hereinafter the "Licensee").

Contact person

[Name]

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Contact information

[Email, phone number]

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Billing address

[Address]

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The Designer:

[Name]

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with business ID,

[Business ID]

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with its principal place of business at

[Address]

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(hereinafter the "Designer").

Contact person

[Name]

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Contact information

[Email, phone number]

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## 2. PURPOSE AND SCOPE OF THE WORK

Whereas, the Designer is a professional [type] designer specialized in [field] and wishes to provide design services to the Customer as further specified in this Agreement.

Whereas, the Customer operates in the field of [industry] and wishes to contract the Designer to create a design as further specified in this Agreement.

The scope of the work shall be as follows: [scope of work], and the specific targets and/or specifications for the work shall be as follows: [targets and/or specifications of the works], (hereinafter the "Design"). The Design shall be further specified in Appendix 1 to this Agreement.

## 3. PROCESS AND TIMETABLE

The design process shall be conducted in [number] phases.

### Phase 1

Phase 1 shall include [specific actions or steps which are included. You may also specify what is not included].

The outcome of phase shall be [description of the outcome, deliverables, results, milestones etc.].

For phase 1, the responsibilities of the Customer shall be [Customer specific responsibilities, e.g. to prepare a prototype based on the drawings and sketches].

The outcome of phase 1 shall be delivered in [format of delivery] to [address of recipient] within [time] of commencing the phase.

The Customer shall deliver its answer of approval within [time] of receiving the outcome of phase 1.

### Phase [x]

[Add additional phases in the same format as above].

After each phase, the Customer shall provide its answer of approval within the time frame specified for each phase. The answer of approval shall include either the approval for the outcome of the phase in question, or rejection of the outcome of the phase with specific reasons for the rejection. In case of rejection, the Customer and the Designer shall agree to set up a (virtual) meeting to go through each reason for rejection and the required steps, revisions and refinements for the completion of the phase. After the (virtual) meeting, the Designer shall have [time], unless otherwise agreed between Parties, to provide the revisions or refinements to the Customer, after which the Customer shall have [time] to accept or reject the revision. A rejection at this point can only be based on the Designers failure to provide the refinements or revisions as agreed in the initial meeting for the rejection of the first outcome of the phase.

Each phase shall be completed after the Customer has approved the phase or, in case of rejection, when the agreed refinements have been delivered. In case the Customer fails to provide an answer of approval within the time table specified for each phase, the phase shall be deemed approved and completed.

Any and all additions, changes, modifications, alterations or amendments to the outcome of the phase in question requested by the Customer after the Customer has approved the phase, and not included in the subsequent phases, shall be invoiced according to the Designer's standard hourly price list.

#### **4. GENERAL RESPONSIBILITIES OF THE PARTIES**

##### The Designer's responsibilities:

The Designer shall carry out tasks and services in conformity with this Agreement with appropriate skills and care required for the task.

The Designer shall deliver each phase of the design process according to the timeframe stated for each phase in section 0 (Process and Timetable) of this Agreement, provided that the Customer has fulfilled all responsibilities assigned for it for the phase in question in a timely manner.

The Designer shall appoint a contact person responsible for communication with the Customer and solving any outstanding issues related to this Agreement.

##### The Customer's responsibilities

The Customer shall be responsible for cooperating fully with the Designer and promptly confirming completion of each phase and the final Design.

The Customer shall perform its actions and tasks at its own cost and expense and in a timely manner.

The Customer shall appoint a contact person responsible for communication with the Designer and solving any outstanding issues related to this Agreement.

The Customer shall pay for the Design as further stipulated in this Agreement.

## 5. FEES AND PAYMENT TERMS

The Customer shall pay the Designer the following fees:

( ) a one time fee of [amount], invoiced [percentage] % at signing of this Agreement, [percentage] % at [date] and [percentage] % at [date];

[and/or]

( ) a fee of [amount] for phase 1, and a fee of [amount] for phase [x], invoiced at the completion of each phase;

[and/or]

( ) an hourly rate based on working hours according to the following price list: [price list, add additional fees for evening, weekend and urgent works], invoiced after each calendar month;

[and/or]

( ) a royalty fee of [percentage] % per product sold, calculated on the sale price, whereas sale price shall mean the consumer or end user sale price, exclusive of VAT and shipping and packaging costs, invoiced after every three month period based on the Customer's report on products sold. (The Customer shall pay a minimum royalty payment of [amount] annually irrespective of the sales of the products incorporating the Design. The minimum payment is nonrefundable and non-cancelable.)

All prices are exclusive of VAT.

All payments are due within fourteen (14) days from the date of the invoice.

Travelling and accommodation expenses and per diem allowances (in Finland and abroad) shall be paid in accordance with the regulations issued by the Finnish tax administration. Payment shall be made on presentation of receipts for expenses.

All payments shall be made in EUR. The Customer shall use the average annual exchange rate as shown by the London Inter-Bank Offered Rate and as published on Reuters, to convert payments from local currency to EUR.

Taxes are not included in the fees, royalty or other payments. The Customer is solely responsible for paying all applicable sales, customs, duty, use, property, withholding, value-added, excise and any other taxes or duties imposed under the authority of any foreign, federal, state or local taxing jurisdiction, except for the Designer's income. The Customer shall reimburse the Designer for taxes and any other expenses incurred for any license required for any possible clearance at the port of entry and destination. The Designer shall be entitled to require tax clearances and/or tax certificates from the Customer evidencing that any and all collected and deducted taxes at source, including but not limited to withholding taxes, are paid by the Customer to the competent tax authorities.

Any invoices not timely paid by the Customer or as to which the Customer shall wrongfully withhold payment, shall be subject to late payment charges at the rate of twelve percent (12%) per annum. In case a payment is outstanding 30 days after the date of the invoice, the Designer has the right to suspend and/or terminate the Agreement in accordance with section **Virhe. Viitteen lähde ei löytynyt.** (Term and Termination) of this Agreement.

## 6. INTELLECTUAL PROPERTY RIGHTS

"Intellectual Property" shall include, inter alia, any patent, copyright, registered design, trade or service mark or other industrial or intellectual property right of the Designer or its affiliates or licensors, and all names and trademarks used in relation to the Design and any applications for the registration or protection of any of the foregoing.

Any and all Intellectual Property rights in or relating to the Design and any associated documentation and any future modifications and/or enhancement thereto are, shall be the sole property of the Designer. The Designer shall grant the Customer a license to use the Design with a separate License Agreement for Design Rights as specified in Appendix 2 to this Agreement.

Any grant of rights under this Agreement is contingent upon receipt of full payment from the Customer to the Designer.

## 7. ERRORS

Errors shall mean a clear error, defect or deviation from the specifications of the Design, which are discovered by the Customer after approving the Design.

The Designer gives no warranty that the Design would be free from Errors. In case the Customer discovers any Errors in the Design, the Customer shall communicate them to the Designer promptly within seven (7) days of the Customer becoming aware or finding an Error. The Designer's sole responsibility shall be to take commercially reasonable steps to correct any such known Error.

## 8. LIMITATION OF LIABILITY

In no event, shall the Designer's accrued liability under this Agreement exceed the amount received under this Agreement. In no event, shall the Designer be liable for any indirect, special, incidental, consequential

damages nor damages, including but not limited to loss of profit or revenue, loss of interest, or loss of use of equipment, loss of production, or damage to reputation, even if the Designer has been advised of the possibility of such claims, whether arising in tort, contract or any other legal theory.

For the sake of clarity, the Designer shall not be liable for any product injury claims that may be addressed to the Customer.

## 9. CONFIDENTIALITY

Both Parties acknowledge that during the term of this Agreement, they may have access to the other Party's confidential information. Confidential information shall mean confidential or other proprietary information that is disclosed by the disclosing Party to the receiving Party under this Agreement, including without limitation, designs, sketches, drawings, specification and documentation, business and product plans, and other confidential information, which is either marked as confidential or should be understood as confidential (hereinafter Confidential Information). Confidential information shall not include 1) information which is or becomes public without any action by, or involvement of the receiving Party, 2) information which is disclosed by the receiving Party with the prior written approval of the disclosing Party, 3) is subsequently and independently developed by the receiving Party, or 4) information which is disclosed pursuant to any judicial or governmental order, provided that the receiving Party gives the disclosing Party sufficient prior notice to contest such order.

Both Parties agree not to disclose or permit any third party or entity access to the Confidential Information or any portion thereof without the prior written permission of the disclosing Party, not to use Confidential Information to damage or harm the disclosing Party, and not to use the Confidential Information for the benefit of the receiving Party.

This section **Virhe. Viitteen lähdettä ei löytynyt.** (Confidentiality) shall survive termination or expiry of this Agreement.

## 10. TERM AND TERMINATION

The License shall be valid

( ) until all the phases defined in section 0 (Process and Timetable) of this Agreement have been fulfilled

| or |

( ) for a fixed term of [period], (and thereafter for an additional term of [period] unless the Agreement is terminated by either party by giving to the other Party a written notice not less than one (1) month prior to the commencement of the additional term).

| or |

( ) until either Party terminates this Agreement by notifying the other Party in writing three (3) months prior to termination.

Either party may terminate this Agreement with immediate effect if:

1. the other Party breaches an obligation under this Agreement, and in case the breach is remediable, the other Party does not remedy the breached obligation within 30 days of being notified of such breach
2. an order is made or a resolution is passed for the winding up of the other Party, or an order is made for the appointment of an administrator to manage the affairs, business and property of the other Party;
3. if the other Party is declared insolvent, bankrupt or has requested a suspension of payment or files for bankruptcy.

## 11. MISCELLANEOUS

### Assignment and modifications

Neither Party may, without the written consent of the other Party, assign this Agreement or otherwise transfer its rights or obligations under this Agreement, provided that the Designer may assign or transfer its rights and obligations under this Agreement to its affiliates, including any successor of its business without the consent of the Customer.

All amendments, modifications, additions and additional provisions to this Agreement must be made in writing and signed by the duly authorized representatives of both Parties

### Notices

All notices, requests, consents, approvals, agreements, authorizations, acknowledgements, waivers and other communications required under this agreement shall be in writing and will be deemed given when delivered to the physical or electronic address specified below:

[address]



### Relationship of the parties

Both Parties to this Agreement are independent contractors and nothing in this Agreement shall be construed to make the Parties partners, joint venture, principals, agents or employees of each other.

### Severability

If any provision of this Agreement, other than a term or provision relating to any payment obligation, is held by a court of competent jurisdiction to be contrary to law, the remaining provision of this Agreement or the application of such provisions to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law.

### No Waiver

No waiver, alteration, variation or addition to this Agreement shall be effective unless made in writing by the authorized representatives of both Parties.

### Force majeure

Neither Party shall be liable for delays or failure to meet its obligations pursuant to this Agreement due to causes beyond the Party's reasonable control to the extent that such causes affect the Party, provided the non-performing Party promptly notifies the other Party of the non-performance and takes all reasonable steps to recommence performance promptly.

### Governing law

This Agreement shall be governed by and construed in accordance with the laws of Finland excluding its choice of law provisions.

### Dispute resolution

Disputes between the Designer and the Customer are primarily intended to resolve amicably by negotiation. Where no agreement is reached, any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be settled in the District Court of [place].

| or |

Disputes between the Designer and the Customer are primarily intended to resolve amicably by negotiation. Where no agreement is reached, any dispute, controversy or claim arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Arbitrations Institute, in Helsinki in English language.

Without prejudice to the foregoing in relation to the Customer, nothing in this section shall prevent or restrict the Designer from electing to bring proceedings in relation to design right or other intellectual property right infringement or from applying for injunctive relief in any court outside of Finland.

## 12. COUNTERPARTS AND SIGNATURES

This Agreement has been duly executed in two (2) original copies, one (1) for each Party.

In [place] on [date] of [month], [year].

The Designer:

The Customer:

\_\_\_\_\_  
[Name]

[Title]

\_\_\_\_\_  
[Name]

[Title]

### APPENDICES

Appendix 1 The Design

Appendix 2 License Agreement for Design Rights