



CREATIVE DIGITAL AGENCY

## Happy Horizon General Terms and Conditions

These are the general terms and conditions of Happy Horizon B.V., registered with the Dutch Chamber of Commerce under registration number 66371856, and all parent, subsidiary, and sister companies affiliated with Happy Horizon (hereinafter collectively referred to as "Service Provider"). You contract with Happy Horizon or the company (or companies) within the group separately. The company with which you enter into an agreement will be made known through the Service Provider's offer.

These general terms and conditions are divided into different modules. Module A contains general provisions that apply to all agreements that clients enter into with Service Provider, regardless of the service provided. The provisions in Module B apply additionally if Service Provider provides custom or development work and/or "content creation" in the context of online marketing/advertising as part of the agreement. The provisions in Module C apply additionally to the general online marketing services that Service Provider provides.

### Module A: General

#### Article A.1. Applicability

A.1.1. The provisions included in this Module A apply to any Agreement, regardless of the Services provided.

#### Article A.2. Definitions

A.2.1. General terms and conditions: these terms and conditions including the associated modules.

A.2.2. Service(s): a service to be provided or already provided by the Contractor, as further specified in the Agreement concluded between the Contractor and the Client. The services may include, among other things, development or (online) marketing services.

A.2.3. Intellectual Property Rights: all intellectual property rights and related rights, including but not limited to copyrights, database rights, domain name rights, trade name rights, trademark rights, design rights, neighboring rights, patent rights, as well as rights to know-how.

A.2.4. Client Data: all data and other information entered or stored during the use of the Services or otherwise provided by the Client to the Contractor in connection with the performance of the Agreement.

A.2.5. Materials: all (written) marketing or communication services, documentation, reports, concepts and ideas, drawings, technical (web)developments, websites, (web)applications, scripts, house styles,



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logos, brochures, leaflets, lettering, advertisements, marketing and/or communication plans, concepts, images, videos, texts, sketches and (other) intellectual creations, as well as preparatory material thereof and the data carriers on which these materials are located, to be developed or manufactured by the Contractor on behalf of the Client in physical or digital form.

A.2.6. Offer: a proposal from the Service Provider, whether written or through the Website.

A.2.7. Client: a natural or legal person acting in the exercise of a profession or business who has entered into an Agreement with the Contractor for the provision of Services.

A.2.8. Contractor: the private company Happy Horizon B.V., registered with the Dutch Chamber of Commerce under registration number 66371856, which also includes: the private company Happy Horizon Eindhoven Development & Technology B.V., registered with the Dutch Chamber of Commerce under registration number 60994819, the private company Happy Horizon Eindhoven Online Marketing B.V., registered with the Dutch Chamber of Commerce under registration number 55341217, the private company Lequal B.V., registered with the Dutch Chamber of Commerce under registration number 68313888, the private company Happy Horizon Apeldoorn Online Marketing B.V., registered with the Dutch Chamber of Commerce under registration number 08199026, the private company We Make Winnrs B.V., registered with the Dutch Chamber of Commerce under registration number 66139899, the private company Happy Horizon Eindhoven Branding Content & PR B.V., registered with the Dutch Chamber of Commerce under registration number 17065976, the private company Happy Horizon Eindhoven Healthcare B.V., registered with the Dutch Chamber of Commerce under registration number 58348670, the private company Happy Horizon Amsterdam Online Marketing B.V., registered with the Dutch Chamber of Commerce under registration number 51259176, the private company Happy Horizon Amsterdam Non-Profit B.V., registered with the Dutch Chamber of Commerce under registration number 30143100, the private company Happy Horizon Amsterdam Data & Automation B.V., registered with the Dutch Chamber of Commerce under registration number 60489790, the private company Happy Horizon Utrecht Online Marketing B.V., registered with the Dutch Chamber of Commerce under registration number 63378132, the private company Happy Horizon Tilburg Online Marketing B.V., registered with the Dutch Chamber of Commerce under registration number 17219462, the private company Happy Horizon Tilburg Development & Technology B.V., registered with the Dutch Chamber of Commerce under registration number 17219458, the private company Happy Horizon Arnhem Online Marketing B.V., registered with the Dutch Chamber of Commerce under registration number 59224525.



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A.2.9. Agreement: any agreement between the Service Provider and the Client pursuant to which the Service Provider will provide the Service to the Client and of which the General Terms and Conditions form an integral part.

A.2.10. Party/parties: the parties to the Agreement, the Contractor and the Client together or separately.

A.2.11. Website: the website of the Service Provider, accessible via the domain <https://happyhorizon.com> including associated subdomains.

A.2.12. Working days: Monday to Friday, excluding Dutch national holidays.

A.2.13. Working hours: hours on working days between 9:00 a.m. and 5:00 p.m.

### **Article A.3. Agreement: Applicability and Interpretation**

A.3.1. The General Terms and Conditions apply to all offers, including quotations, the execution of (additional) work by or on behalf of the Contractor and the performance of (future) Agreements.

A.3.2. The specific modules apply if the requested or offered Services fall within the scope described in the module. If a specific module applies, it prevails over Module A. In all other respects, the modules supplement each other.

A.3.3. The applicability of any procurement or other (general) terms and conditions of the Client is expressly excluded. Provisions or conditions set by the Client that deviate from or do not occur in these General Terms and Conditions are binding on the Service Provider only if and to the extent that they have been expressly accepted in writing by the Service Provider.

A.3.4. If any provision in these General Terms and Conditions is null, void or is annulled, the other provisions of the General Terms and Conditions shall remain in full force and effect and the Contractor and Client shall consult with each other in order to agree on new provisions to replace the null, void or annulled provisions, taking into account, as far as possible, the objective and purpose of the null, void or annulled provisions.

A.3.5. In case of any inconsistency between different documents, the following order of priority applies:

- a. approved Quotation;
- b. (if agreed) Processing Agreement;
- c. (if agreed) Service Level Agreement;
- d. (if agreed) Processing Agreement;
- e. General Terms and Conditions.

### **Article A.4. Conclusion of the Agreement**

A.4.1. A Quotation or other Offer by the Contractor is non-binding and valid for a period of fourteen (14) days, unless expressly stated otherwise. The Contractor is not obliged to accept an acceptance after this period



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has elapsed, but if the Contractor does so, the Quotation or offer is deemed to have been accepted. The Contractor reserves the right to make changes to Quotations or to withdraw Quotations at any time. The Agreement is concluded after acceptance of the Quotation or Offer by the Client and the subsequent confirmation, whether or not automatically generated, by the Contractor.

A.4.2. The Contractor is only bound by a deviation in the acceptance of an offer by the Contractor made by a potential Client, even on minor points, if the Contractor accepts the deviating acceptance in writing.

A.4.3. If the Contractor has made an offer based on information provided by the Client and if this information proves to be incorrect or incomplete, the Contractor has the right to terminate the Agreement or to adjust the offer and prices, even after the conclusion of the Agreement.

A.4.4. The Contractor reserves the right to refuse orders from the Client without giving any reason.

A.4.5. If the Client does not explicitly indicate that he agrees with the Quotation or Offer, but nevertheless agrees that the Contractor performs work or delivers Materials that fall within the description of the Quotation or Offer, or gives the impression, the Quotation or Offer is deemed to have been accepted. This also applies when the Client requests the Contractor to perform certain work or to deliver Materials without waiting for a Quotation or Offer.

#### **Article A.5. Execution of the Agreement**

A.5.1. After the conclusion of the Agreement, the Contractor will make every effort to comply with it within the agreed time frame, applying adequate care and skill, or within a reasonable period if no time frame has been agreed upon.

A.5.2. Furthermore, the Contractor will make every effort to represent the interests of the Client to the best of their knowledge and to strive for a usable result for the Client. However, the Contractor cannot guarantee that the work will always achieve the desired result of the Client and is never liable for not achieving the result that the Client intended, unless otherwise agreed.

A.5.3. The Contractor has the right to engage third parties in the execution of the Agreement. Any related costs are only charged to the Client if agreed upon in advance.

A.5.4. The Client will provide the Contractor with all necessary support to enable correct and timely delivery of the Services. The Client provides the data, materials, and/or information upon request by the Contractor and spontaneously if relevant to the work at hand. The Client is responsible for providing accurate data, materials, and/or information. The Contractor is not responsible or liable for any errors or damages if the Client has provided incorrect data. The Client indemnifies the Contractor against claims (from third parties) in this regard.

A.5.5. The Client is responsible for the accuracy, completeness and reliability of the data, even if they come from third parties. The period within which the Contractor must execute the Agreement does not commence until all requested and required data and information have been received by the Contractor. Furthermore, the Contractor has the right to charge the Client for any additional costs resulting from the delay, according to the usual rates.

A.5.6. If the Client is in omission with regard to an essential obligation towards the Contractor, or if circumstances that have come to the Contractor's knowledge after the conclusion of the Agreement give the Contractor good reason to doubt that the Client will not fulfil their obligations, the Contractor is entitled to suspend or terminate the Agreement.

A.5.7. Any delivery periods announced by the Contractor or agreed upon between the Parties are always indicative and do not apply as a final deadline.

A.5.8. Reporting, if agreed upon in advance, by the Contractor to the Client takes place in accordance with the offer, quotation, or Agreement.

A.5.9. If no reporting method has been specified, reporting will be done in Dutch and according to the standards of good craftsmanship. If no reporting medium has been agreed upon, the Contractor determines the medium used for this purpose.

#### **Article A.6. Additional Work and Changes**

A.6.1. If, at the request or with the prior consent of the Client, the Contractor has made changes, additional work, or services that fall outside the Agreement, or is carrying out additional work, these activities or services will be reimbursed by the Client according to the agreed rates and, failing that, according to the usual rates of the Contractor. The Contractor is never obliged to comply with such a request and may require a separate written agreement to be concluded for the performance of the relevant work.

A.6.2. The Client accepts that additional work or services may result in exceeding the agreed budget or time frame. If this occurs, the Contractor will consult with the Client about the consequences and any necessary adjustments to the Agreement.

#### **Article A.7. Usage & application rules**

A.7.1. It is forbidden for the Client to use the Services to violate Dutch or other applicable laws or regulations that apply to the Client or Service Provider, or to infringe on the rights of others.

A.7.2. In addition, it is expressly prohibited (whether lawful or not) to offer or distribute materials via the Services that:

- a. contain malicious content (such as malware or other harmful software);



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- b. infringe on third-party rights (such as intellectual property rights), or are unequivocally defamatory, libellous, insulting, discriminatory or hate-mongering;
  - c. contain information or could be helpful in infringing on third-party rights, such as hack tools or explanations of computer crime intended to induce the reader to engage in criminal activities rather than to defend against them;
  - d. violate the personal privacy of third parties, including but not limited to the unauthorized or unnecessary dissemination of personal data of third parties;
  - e. contain hyperlinks, torrents, or references to (locations of) materials that infringe on copyright or other intellectual property rights; or
  - f. contain child pornography, bestiality pornography, or animations thereof, or are evidently intended to help others find such materials.
- A.7.3. The Client refrains from hindering or causing damage to systems or networks of the Service Provider or other clients or internet users. It is prohibited for the Client to initiate processes or programs, whether via the Service Provider's systems or otherwise, which the Client knows or reasonably suspects will impede or damage the Service Provider, its clients or internet users.
- A.7.4. If, in the opinion of the Service Provider, there is a risk of hindrance, damage or other danger to the functioning of the computer systems or network of the Service Provider or third parties and/or to internet service provision, particularly due to excessive transmission of e-mail or other data, (distributed) denial-of-service attacks, poorly secured systems or activities of viruses, Trojans and similar software, the Service Provider is entitled to take all measures that it reasonably deems necessary to avert or prevent such danger. The Service Provider may recover the costs reasonably necessary for such measures from the Client. The Service Provider is at all times entitled to report any criminal offenses discovered. Furthermore, the Service Provider is entitled to provide the name, address, IP address, and other identifying information of the Client to a third party who complains about the Client's infringement of their rights or these General Terms and Conditions, provided that the applicable legal or case law requirements have been met.
- A.7.5. The Service Provider may recover damages from the Client resulting from violations of these usage rules.
- A.7.6. If the Client violates these usage rules, the Service Provider is entitled to block access to the Service(s) and/or the relevant materials and to suspend or terminate the Agreement.
- A.7.7. The Client is obliged to act in accordance with applicable legal provisions, netiquette, the guidelines of the Advertising Code Commission, the Agreement, and these General Terms and Conditions.



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### **Article A.8. Availability and maintenance**

A.8.1. The provisions of this Article A.8 shall apply if the Client has instructed the Contractor to perform maintenance and/or support activities.

A.8.2. The Contractor shall use its best efforts to ensure uninterrupted availability of its Services, but does not guarantee this unless otherwise agreed through a service level agreement. The Contractor is also dependent on its Contractor(s) for this.

A.8.3. The Contractor depends on its Contractor(s) to make changes to the Services. The Contractor is entitled to not install certain updates or patches if, in its opinion, this would not contribute to a correct delivery of the Service, or if not installing them would not be to the detriment of the delivery of the Service.

A.8.4. The Contractor has the right to temporarily disable its Service or parts thereof for maintenance, modification, or improvement purposes, as well as for maintenance, modification or improvement of the associated facilities. The Contractor will make every effort to carry out such outages outside Working Hours and to inform the Client in a timely manner of the planned outages.

A.8.5. In the event that the Contractor believes that a Service outage, whether during Working Hours or not, is necessary for the proper functioning of the Service, it is entitled to immediately disable the Service without prior notice to the Client. However, the Contractor is never obliged to pay any damages in connection with such a Service outage.

A.8.6. The Client shall provide the required assistance for maintenance and shall temporarily stop using the Services and provide a backup.

A.8.7. The Contractor is not obliged to provide maintenance and/or support to users of the Services. If the Client requests maintenance and/or support, the Parties will consult with each other and the Contractor may make an offer. The Contractor will perform the maintenance and/or support activities only after the Client accepts the offer. The Contractor has the right to refuse such a request.

### **Article A.9. Intellectual Property Rights**

A.9.1. All Intellectual Property Rights to all Materials developed or made available by the Contractor in the context of the Agreement are exclusively owned by the Contractor or its licensors.

A.9.2. All Intellectual Property Rights that rest on the Customer Data or other materials provided by the Client remain with the Client. The Client indemnifies the Contractor against any claims by third parties based on infringement of an (Intellectual Property) right due to the Customer Data or materials as provided by the Client or its end users.

A.9.3. Unless otherwise agreed in writing and provided that the Client meets its payment obligations under the Agreement, the Client obtains a non-exclusive, unlimited, transferable, perpetual, and sublicensable right to use the Materials developed or made available by the Contractor in the



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context of the Agreement, in accordance with the provisions of the Agreement. Unless otherwise agreed, the Client shall only use the Materials for the intended use in its own business or organization.

A.9.4. The Client has no right to the source code and is not entitled to apply reverse-engineering to what the Contractor has developed exclusively for the Client up to that point, unless otherwise agreed or required by law.

A.9.5. The Client is not permitted to remove or modify any indication of Intellectual Property Rights from the Materials, including indications of their confidential nature and confidentiality.

A.9.6. The Contractor is allowed to take technical measures to protect the Materials. If the Contractor has secured the mentioned parts through technical protection, the Client is not allowed to remove or circumvent this protection.

A.9.7. The Client is not authorized to modify/improve the Materials (in part) or use them in (partially) modified form, or use them without any mention of the name of the Contractor as the creator, unless otherwise agreed.

A.9.8. The Contractor is allowed to use the Materials developed or provided by the Contractor and the Services performed within the framework of the Agreement for its own promotion and/or publicity. Furthermore, the Contractor is entitled to use the (company) name, logo, and a general description of the Client for its own promotion and/or publicity.

#### **Article A.10. Confidentiality**

A.10.1. Parties shall treat information they provide to each other before, during, or after the execution of the Agreement as confidential when this information is marked as confidential or when the receiving Party knows or reasonably should suspect that the information was intended as confidential. Parties also impose this obligation on their employees as well as on third parties engaged by them to execute the Agreement.

A.10.2. The receiving Party ensures that confidential information receives the same level of protection against unauthorized access or use as its own confidential information, but at least a reasonable level of protection.

A.10.3. The obligation to keep confidential information secret does not apply if and to the extent that the receiving Party can demonstrate that it:

- a. was already in possession of the information before the date of purveyance;
- b. is available from a third party without violating any obligation of confidentiality owed to the disclosing Party by providing it;
- c. is available from public sources, such as newspapers, patent databases, publicly accessible websites or services;





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d. was developed independently and without using any information from the disclosing Party by the receiving Party.

A.10.4. If a Party receives an order to release confidential information from an authorized authority, it has the right to release it. However, the disclosing Party is informed about the order as soon as possible (in advance), unless this is not permitted. If the disclosing Party indicates that it wants to take measures against the order (for example, via summary proceedings), the receiving Party will wait to release until a decision has been made on this, as far as legally possible.

A.10.5. The obligation of confidentiality also remains in force after termination of the Agreement for any reason, for as long as the disclosing Party can reasonably claim the confidential nature of the information.

### **Article A.11. Prices**

A.11.1. All prices mentioned by the Contractor are in Euros and exclude VAT, unless expressly stated otherwise in the Offer or proposal.

A.11.2. The Contractor is entitled to adjust the rates for its Services up to a maximum of once a year in accordance with the price index figure of the Services Producer Price Index (SPPi), which is published annually by the Dutch Central Bureau of Statistics.

A.11.3. Prices may also be increased by the Contractor at any time in the event that the rates of its supplier, for example, of electricity, data centres, software, and (public) cloud solutions increase. The preceding without the possibility for the Client to terminate the Agreement.

A.11.4. Article A.11.2 and Article A.11.3 make an exception to the Contractor's right to terminate the Agreement in the event of a price increase. The Contractor is entitled to implement price increases outside of the cases mentioned in those articles, with a notice period of one (1) month. If the Client does not agree with such an increase, the Client is entitled to terminate the Agreement from the moment the price increase takes effect. If the Contractor wishes to lower the current prices and rates, the Contractor is entitled to implement such a reduction immediately, without the possibility of termination by the Client.

A.11.5. Prices are based, among other things, on factors that are applicable at the time of the disclosure or conclusion of the Agreement or Offer, including social and tax charges, levies, insurance premiums, etc. If changes in these or other price-determining factors occur after the disclosure or conclusion of the Agreement and before the completion of the service or delivery, the Contractor has the right to adjust the prices it uses and invoice the Client accordingly.

A.11.6. The purchasing costs incurred, including but not limited to, media costs paid by the Contractor on behalf of the Client, will always be fully charged, including the agreed mark-up percentage, unless otherwise agreed in the Agreement. Exceeding and/or deviation from the incurred procurement costs, other than agreed in advance, will still be charged to the Client by the Contractor.

## **Article A.12. Payment**

A.12.1. The Client shall pay the Contractor the amount as stated in the Agreement. The Contractor is entitled to invoice the Client in advance and electronically. Each invoice shall have a payment term of thirty (30) days, unless expressly agreed otherwise.

A.12.2. Furthermore, the Parties may agree in writing that the work will be invoiced to the Client based on calculation after the fact. The actual hours spent by the Contractor will be invoiced to the Client at the Contractor's usual applicable rate. Any license fees related to A.9.3 shall also be invoiced based on calculation after the fact.

A.12.3. The Client shall reimburse the Contractor for any expenses incurred directly or indirectly by the Contractor in the course of its work. These expenses are not included in the rates stated under A.12.1.

A.12.4. If the Contractor provides a Quote to the Client regarding work to be carried out by third parties or goods to be delivered by third parties, this Quote is subject to the condition that the Quote provided by the aforementioned third parties to the Contractor may contain inaccuracies.

A.12.5. If automatic collection has been agreed upon, by entering into the Agreement the Client grants the Contractor a SEPA mandate to automatically collect the amounts owed by the Client from the Client's bank account. In this case, the Client shall always ensure that there are sufficient funds in the bank account designated for automatic collection. If the collection cannot be made, the Client shall pay the invoiced amounts by other means before the end of the deadline.

A.12.6. The Contractor is at all times entitled to invoice certain costs in the same manner as specified under A.12.5. These costs include, in any case, the costs of production, exposure and distribution.

A.12.7. Regardless of the agreed payment condition, in projects over €50,000, the Contractor may request a security deposit from the Client for the payments.

A.12.8. The Contractor is entitled to make execution of the Agreement dependent on payment of a deposit by the Client. In case of a requested deposit, the Contractor will only perform work under the relevant Agreement after the deposit has been paid by the Client. If the deposit is not, or not timely, paid, the Contractor will never be liable for damages resulting from failure to perform the Agreement. Any paid deposits will be offset against an invoice under the Agreement.

If the Client has not fully paid within the payment term, the Contractor will still give the Client the opportunity to pay the invoice amount within fourteen (14) days. If the Client has still not fully paid after this period, he will automatically be in default without the need for notice of default, and the Contractor shall have the right to hand over the claim and/or suspend the Services until the outstanding amounts have been fully paid. In such a case, both the judicial and extrajudicial costs (including

the costs of lawyers, legal experts, bailiffs and collection agencies) shall be borne by the Client.

### **Article A.13. Liability**

A.13.1. The total liability of the Contractor towards the Client, resulting from an attributable failure to perform the Agreement, an unlawful act or otherwise, is limited to compensation for direct damage. Direct damage shall exclusively mean all damage consisting of:

- a. damage directly inflicted on tangible property ("property damage");
- b. reasonable and demonstrable costs that the Client has had to incur in order to prompt the Contractor to (re)perform the Agreement properly;
- c. reasonable costs incurred to determine the cause and extent of the damage, insofar as it relates to direct damage as referred to herein;
- d. reasonable and demonstrable costs incurred by the Client to prevent or limit the direct damage as referred to in this Article A.13;
- e. reasonable and demonstrable costs incurred by the Client to make the performance comply with the Agreement.

A.13.2. Notwithstanding the foregoing, the liability of the Contractor, for any reason whatsoever, and in particular for attributable failure to perform the Agreement, unlawful act, or warranty obligation, is limited to compensation for direct damage up to a maximum of the agreed price for the Service (excluding VAT) for 6 (six) months, with a series of events being considered as one event, with a maximum of €250,000 (two hundred and fifty thousand euros) per calendar year.

A.13.3. A condition for the creation of any right to compensation is that the Client reports the damage to the Contractor in writing as soon as possible after becoming aware of it.

A.13.4. The liability of the Contractor for an attributable failure to perform an Agreement arises only if the Client notifies the Contractor in writing without delay and adequately, setting a reasonable period for remedying the failure, and the Contractor continues to fail to perform its obligations in a attributable manner even after that period. The notice of default shall contain as detailed a description as possible of the failure so that the Contractor can respond adequately.

A.13.5. Any limitation of liability of the Contractor included in the Agreement shall expire to the extent that the damage is the result of intent or wilful recklessness of the Contractor, as well as death or bodily injury.

A.13.6. The Client is responsible for whether or not to follow advice given by or on behalf of the Contractor. The Client must assess for itself whether it should fully follow the advice, taking into account the circumstances then prevailing. The Contractor cannot guarantee that its advice can be applied directly or in full in all cases where the Client intends to do so, even at a later stage. The Contractor does not inform the Client of any changes in circumstances after giving any advice.



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A.13.7. The Contractor is not liable for deficiencies in the execution of the work caused by actions and behaviours of the Client and/or third parties engaged by or on behalf of the Client, including but not limited to:

- a. failure or delay in providing accurate/updated data or information;
- b. failure to timely communicate changes or additions to the work;
- c. defects in Materials that have already been approved by the Client for completion of the work, or for which the Client has failed to approve (if requested) prior to completion of the work;
- d. errors in and/or during the (online) placement of Materials, including but not limited to advertisements, printed materials, software or other media.

A.13.8. All claims for liability against the Contractor expire after a period of twelve (12) months following termination or completion of the work.

A.13.9. The Client indemnifies the Contractor against any claims by third parties resulting from a breach of the Agreement by the Client.

#### **Article A.14. Exceptional Circumstances**

A.14.1. The Contractor cannot be held to fulfil any obligation under the Agreement if fulfilment is hindered by force majeure. The Contractor also cannot be held liable for any damages resulting from such force majeure.

A.14.2. Exceptional circumstances includes, but is not limited to: power outages, internet disruptions, disruptions in the telecommunications infrastructure, network attacks (including (D)DoS attacks), malware or other malicious software attacks, domestic unrest, mobilization, war, terrorism, strikes, import and export restrictions, supply chain disruptions, fire and floods, unforeseen complications in execution, problems with suppliers and other circumstances that make the execution of work disproportionately expensive or burdensome.

If a force majeure situation lasts longer than six (6) months, both Parties have the right to immediately terminate the Agreement in writing, without any obligation to undo the work already completed.

#### **Article A.15. Duration and Termination**

A.15.1. The duration of the Agreement is determined in the Agreement. If no duration is specified and if the Contractor commits to providing Services as described in the Agreement for a longer period (a long-term agreement), the Agreement is entered into for an indefinite period. For one-time agreements for the development or adaptation of Materials, it applies that it continues for the duration of completion of the Agreement. One-time agreements cannot be terminated prematurely.

A.15.2. Parties may terminate the Agreement for an indefinite period in writing, subject to a notice period of at least three (3) months, unless a different notice period has been agreed upon in the Agreement. In case of lawful termination, the parties will never be obliged to pay any damages.

A.15.3. The Contractor may terminate an Agreement in writing, without notice or judicial intervention, with immediate effect, if the Client is granted temporary suspension of payments, if bankruptcy is requested with regard to the Client, or if his/her business is liquidated or terminated other than for the purpose of reconstruction or merging of businesses.

A.15.4. In the event of termination of the Agreement, amounts invoiced for services rendered remain due, without any obligation to undo. In the event of termination by the Client, the Client may only terminate that part of the agreement that has not yet been performed by the Contractor. The invoiced amounts for services already rendered or delivered remain due after termination of the Agreement and are immediately payable from the day of termination.

A.15.5. The Contractor is entitled to suspend or discontinue the performance of the work and any granted user rights if the Client does not comply with the payment conditions, fails to provide the required security, or fails to provide the correct or complete data/materials and/or information requested by the Contractor.

A.15.6. If the Client fails to comply with one or more obligations under the Agreement as a result of an attributable failure, the Contractor shall notify the Client in writing, providing a reasonable period for the Client to comply with its obligation(s), unless the performance of the relevant obligation(s) is already permanently impossible, in which case the Client is immediately in default. The Contractor is then entitled to terminate the Agreement with the Client without judicial intervention. The Client is obliged to reimburse the costs incurred by the Contractor up to that moment, advances made, and the honorarium due at that time, without prejudice to the Contractor's right to compensation for damages.

#### **Article A.16. Support**

A.16.1. The Contractor shall make itself available for a reasonable level of customer support via its ticketing system. After providing all relevant information, the Client may request support from the Contractor via this ticketing system. If agreed in writing, the Contractor shall make itself available for a reasonable level of remote customer support via telephone and email, during regular business hours.

A.16.2. In case of incomplete or incorrect information and/or questions provided in the ticketing system, the Contractor may not be able to initiate or correctly handle the support request.

A.16.3. The Contractor endeavours to handle support requests within a reasonable time frame. The time required to respond to and resolve notifications may vary.

#### **Article A.17. Customer Data and Exit Arrangements**

A.17.1. All customer data remains the property of the Client. The Contractor will not claim ownership of the customer data. After

termination of the Agreement, the Contractor will, in accordance with the provisions of this Article A.17, destroy or remove all customer data.

A.17.2. The Client grants the Contractor a non-transferable and sublicensable license to use the customer data for the duration of the Agreement, to the extent necessary for the provision of the Service(s).

A.17.3. If the Agreement is terminated, the Contractor will make reasonable efforts to provide support for the migration or transition to another service or another ICT contractor by unlocking relevant data and providing access to the parts of the relevant Service(s) to be migrated. Any associated costs will be borne entirely by the Client. The Contractor is not responsible for the actual transition or migration to the new contractor. This remains the responsibility of the Client.

A.17.4. If the Client wishes to use the exit support as mentioned above, the Client must submit a written request to the Contractor no later than the date on which the Agreement ends. For exit support beyond the above, the Contractor is entitled to charge the associated costs to the Client at the agreed hourly rates. If no hourly rate has been agreed, the Contractor is entitled to charge these costs at the then-current hourly rates of the Contractor.

A.17.5. The Contractor is only obligated to provide the aforementioned assistance for the migration or transition of the Client if all amounts due from the Client and any other obligations under the Agreement have been fully paid or fulfilled.

#### **Article A.18. Continuity**

A.18.1. Parties may agree on a provision for the continuity of the services provided by the Contractor. The Client will be obliged to pay an additional fee for this.

A.18.2. The establishment of a continuity arrangement can be part of this. A continuity arrangement will then be established for the benefit of the Client, with a trusted third party to be agreed upon by the Parties in the Netherlands. The scope of the continuity arrangement will be determined in joint consultation, but may include the data, source code and documentation of the Service.

#### **Article A.19. Amendment of General Terms and Conditions**

A.19.1. The Contractor is authorized to unilaterally amend the General Terms and Conditions. Changes also apply to already concluded Agreements. Changes will be communicated to the Client in writing and will come into effect thirty (30) days after the communication, unless a different date is indicated at the time of communication.

A.19.2. If the Client does not agree with a change, it can be communicated to the Contractor in writing before the new conditions come into force, after which the Parties will enter into consultation.

A.19.3. If the intended change(s) significantly adversely affect(s) the Services or the position of the Client, the Client may terminate the

Agreement, provided that the notification has been received by the Contractor before the date on which the change takes effect.

A.19.4. Changes of minor importance, changes based on the law and changes in favour of the Client may be implemented at any time.

#### **Article A.20. Other provisions**

A.20.1. Dutch law applies to the Agreement.

A.20.2. The data (administration) of the Contractor concerning the work performed and the amounts owed shall be considered authentic and conclusive evidence, subject to rebuttal by the Client.

A.20.3. Unless mandatory law requires otherwise, any disputes arising from the Agreement shall be submitted to the competent Dutch court in the district where the Contractor is located.

A.20.4. Where the General Terms and Conditions refer to "in writing", communication by email shall also be understood, provided that the identity of the sender and the integrity of the content can be sufficiently established.

A.20.5. The Client may not transfer its rights and/or obligations arising from or related to the Agreement in whole or in part to third parties without the written consent of the Contractor.

A.20.6. The Contractor is entitled to transfer its rights and obligations arising from the Agreement to a third party that takes over the Contractor or its business activities, without prior consent from the Client.

### **Module B: Development and Customization**

#### **Article B.1. Applicability**

B.1.1. The provisions contained in this Module B apply in addition if the Contractor delivers customization or development activities and/or "content creation" in the context of online marketing/advertising under the Agreement.

#### **Article B.2. Prices**

B.2.1. Before Commencing any work for Client to realize Materials, Parties shall agree in writing on the hourly rate that Contractor will charge. Unless otherwise agreed by Parties, at the end of each month, Contractor shall invoice Client based on a cost calculation for the hours spent.

B.2.2. When Parties have agreed on the hourly rate that Contractor will charge and how these hours will be invoiced to Client, Contractor is authorized to use its professional judgment in spending hours for work related to the realization of the Materials. These activities may include discussions and meetings with Client, as well as conducting (preliminary) research, programming and implementation work.

B.2.3. If Client has pre-purchased a certain number of hours from Contractor, or if Parties have agreed on a maximum number of hours,

Contractor shall stop performing work once the purchased hours have been exhausted or the maximum number of hours has been reached.

B.2.4. In the event that the work carried out by Contractor up to that point does not fully comply with the intended Materials of Client, or if Client has new requirements, Parties may agree on additional hours that Contractor may use to further develop the relevant Materials.

### **Article B.3. Cancellation**

B.3.1. In case of cancellation of the activities, the Contractor is obliged to charge costs. These amounts are:

- a. in case of cancellation up to two weeks before the start of the activities, 10% of the agreed price;
- b. In case of cancellation between two weeks and one week before the start of the activities, 25% of the agreed price;
- c. In case of cancellation less than one week before the start of the activities, 50% of the agreed price.

### **Article B.4. Execution of customization and development**

B.4.1. Prior to executing the activities, the Parties will record in writing how and according to which methodology the activities will be executed, as well as the specifications to which the Materials to be developed must comply.

B.4.2. The Contractor will make an effort to keep the Client informed about the progress of the development activities during the execution of the activities.

B.4.3. The Contractor will deliver the developed Materials to the Client if they meet the predetermined requirements and/or are suitable for use in their professional opinion.

B.4.4. The Contractor will make an effort to develop the Materials as well and error-free as possible, but cannot guarantee that the Materials are free of errors or will be free of errors at any time.

B.4.5. The Client indemnifies the Contractor from all claims by third parties regarding the use by, on behalf of or with the approval of the Client of the Materials developed by the Contractor.

### **Article B.5. Third-party materials**

B.5.1. If agreed upon, the Contractor has the right to use third-party materials during the development activities. Any costs associated with the use of these materials shall be borne by the Client.

B.5.2. The Contractor has the right to use open-source software during the development activities, provided that this does not require the developed Materials to also be distributed under an open-source license.

B.5.3. After delivery of the Materials, the Client shall be fully responsible for compliance with any conditions related to third-party materials.





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## **Article B.6. Acceptance and delivery**

B.6.1. Within 14 days of delivery, the Client shall evaluate the developed Materials and either accept or reject them in writing with a reasoned explanation. The Client may only reject the delivered Materials if they do not meet the pre-agreed specifications.

B.6.2. The Client shall not reject the delivered Materials due to minor defects that do not hinder their operational use. Upon notification by the Client of minor defects, the Contractor shall make reasonable efforts to resolve them within a reasonable timeframe.

B.6.3. The developed Materials shall be considered accepted if the Client:

- a. accepts the developed Materials;
- b. puts the developed Materials into operational use; or
- c. does not reject the developed Materials in writing with a reasoned explanation within the aforementioned timeframe.

B.6.4. If the Materials are delivered in phases, the Client shall approve or reject the portion of the Materials for each phase after delivery. The Client may not base an approval or rejection in a later phase on aspects that were approved in an earlier phase.

B.6.5. If the Client rejects the developed Materials, the Contractor shall make reasonable efforts to address the reason for rejection within a reasonable timeframe. This can be done by providing a reasoned explanation as to why the reason for rejection is not applicable or by revising the Materials. The Client shall then re-evaluate the Materials according to the aforementioned procedure.

B.6.6. If the Client continues to reject the delivered Materials in whole or in part after revision or explanation, the Contractor is entitled to charge additional costs for all subsequent revisions.

B.6.7. If a party indicates, after at least one round of revisions, that further revisions are no longer meaningful, both parties are entitled to terminate the Agreement (or the portion thereof related to development). In that case, the Client is only obliged to reimburse the Contractor for the costs incurred and work already performed, but shall not have the right to (continue to) use the Materials.

B.6.8. After acceptance of the Materials by the Client, the liability of the Contractor for any defects in the delivered Materials shall expire, except to the extent that the Contractor has provided explicit guarantees.

## **Module C: Online Services**

### **Article C.1. Applicability**

C.1.1. The provisions included in this Module C apply in addition to the general online marketing services that Contractor performs on behalf of Client.



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## **Article C.2. Search Engine Optimization and Search Engine Advertising**

C.2.1. With regard to services in the field of Search Engine Optimization (hereinafter: "SEO") and Search Engine Advertising (hereinafter: "SEA"), Contractor reserves the following rights.

C.2.2. Contractor will make every effort to perform the assignment to the best of its ability. For the SEO service, the aim is to achieve a good quality listing in the most commonly used Dutch (or otherwise agreed upon) search engines. Contractor has an obligation to make efforts for the absolute score and will strive for a high position if possible. Contractor reserves the right to deviate from this if there are difficult-to-position words, third-party spam, non-indexing by the search engine(s), rejection or non-indexing of the URL by the search engine due to technical aspects or specifications of the website, technical imperfections or failure to comply with and/or follow the advice provided by Contractor.

C.2.3. (Statistical) data (indications) provided by or on behalf of Contractor are always indicative, unless explicitly stated otherwise. Client cannot derive any rights from this data. For both the SEO and SEA services, an obligation to make efforts applies and not an obligation to achieve results.

C.2.4. Contractor is not liable for errors resulting from work performed by third parties, such as Google.

C.2.5. Advertising costs for SEA will be paid directly to third parties, such as Google, unless otherwise agreed upon.

C.2.6. To the extent required for the execution of the Agreement, Contractor will enter into paid services with third parties on behalf of Client in the context of search engine optimization.

## **Article C.3. Email services**

C.3.1. If the Service is also intended for the sending of electronic communication by Contractor on behalf of the Client, including but not limited to newsletters or advertising messages by email, the provisions of this Article C.3 shall also apply.

C.3.2. The Parties guarantee that they will at all times comply with the applicable provisions of the (European) legislation and codes of conduct, including regulations regarding the protection of personal data and electronic communication, as well as the (ethical) rules of the Data Driven Marketing Association ('DDMA') industry association, including the 'Code Advertising via Email.'

C.3.3. The Client declares that all email addresses or other contact information provided by them are correct and that the respective recipients have explicitly and unambiguously consented to receiving the relevant messages, or that sending without consent is permitted by law. Upon request of the Contractor, the Client shall immediately provide evidence thereof.

C.3.4. Contractor is entitled to suspend the execution of the sending if complaints are received from recipients during the execution, indicating that these messages have been sent without consent.

C.3.5. The Client shall ensure that the content and format of the messages comply with all legal requirements regarding electronic communication, including the inclusion of the identity of the Client, contact details, and unsubscribe options. This obligation applies only to the extent that the content and format are provided or supplied by the Client.

C.3.6. The Client shall indemnify Contractor against all claims by third parties, fines, and other penalties by regulators that Contractor receives as a result of the Client's failure to fully comply with the aforementioned regulations and/or codes of conduct and shall compensate all damages incurred by Contractor as a result of a breach of the warranty included in Article C.3.2. In such a case, Contractor also has the right to terminate the Agreement immediately without being liable for damages.

#### **Article C.4. Domain names and IP addresses**

C.4.1. The application, allocation, and potential use of domain names and IP addresses are subject to the prevailing rules and procedures of the relevant registering authorities, such as the Foundation for Internet Domain Registration in the Netherlands (SIDN) for .nl domain names. The relevant authority will decide on the allocation of domain names and IP addresses. The Contractor plays only a mediating role in the application process and does not guarantee that an application will be granted.

C.4.2. The Client must comply with the rules or conditions that registering authorities set for the application, allocation, or use of domain names and IP addresses.

C.4.3. The Client guarantees that domain names registered or to be registered by the Contractor on behalf of the Client do not infringe on the rights of third parties, such as trade name or trademark rights. The Client indemnifies and holds the Contractor harmless for any damages arising from (the use of) a domain name on behalf of or by the Client. The Contractor is not liable for the loss by the Client of its right(s) to a domain name or for the fact that the domain name is requested and/or obtained by a third party in the interim.

C.4.4. For security reasons, the Contractor will not provide the Client with access to the management environment of a Domain Name System (DNS). If the Client shares certain DNS settings (DNS records) with the Contractor or if a DNS was already (partially) configured by a party other than the Contractor, the Contractor is not responsible for taking over any errors in the DNS settings.