

# General terms and conditions of Agenc Digital

Address updated and translated to English on November 30, 2022

These general terms and conditions shall apply to all offers and the formation, content, and performance of all agreements to be entered into between Agenc Digital (hereinafter: Agenc) and the client. Deviations thereof will be valid if they have been agreed upon in writing. Dutch law will apply to these agreements.

For questions about these terms and conditions:

email: [info@agenc.nl](mailto:info@agenc.nl)

telephone: +31 6 120 11 567

address: Europaplein 1005, 3526WV, Utrecht / Van Sijpesteijnkade 13 E, 3521AH, Utrecht

## Warranty

Agenc offers a warranty up to three (3) months after the delivery of products and services. This guarantee means that defects will be repaired free of charge. If any defects are discovered, Agenc will repair them within a reasonable time. The customer cannot invoke the warranty if:

- invoking the guarantee is contrary to the standards of reasonableness and fairness expected in society;
- the defects are the result of user errors by the client or third parties;
- customer or third parties have made changes to the products or services supplied by Agenc;
- loss of data occurs as a result of the acts or omissions of the Client or third parties.

## Third parties

In certain cases, Agenc is dependent on third-party products or services, or the client is dependent on third-party products or services. There is a chance that certain products or services may be incompatible with those provided by Agenc. Agenc is not responsible for such incompatibility and may charge for the resolution of incompatibility; this is not covered by the warranty.

## Complaints and support

Complaints should be reported to Agenc as soon as possible. Agenc will make every effort to solve possible complaints. Possible payment obligations will however remain unaffected by the reporting of a complaint.

## Contracts

For certain services that can be considered long-term contracts, such as SEO, SEA, Social Media campaigns or website maintenance Agenc works with long term contracts in which we agree with the customer that we will carry out a project for a certain period of time. In consultation, this project will be executed for an offer-determined number of hours in a certain period.

These agreements can always be terminated in writing up to one month before their end. If such a long-term contract is not terminated in time, it shall in principle be automatically extended by a new period of three (3) months each, until it is terminated in time.

## Cookies

When using or exporting certain services, including Google Analytics or the sale of advertisements, it is possible to make use of cookies. If cookies are placed and/or read out for the customer, the customer is fully responsible for compliance with all applicable legislation. Agenc is indemnified by clients in case of any liability or sanctions. Clients undertake to comply fully with the applicable legislation concerning cookies and data analysis, such as those included in the Telecommunications Act, the Personal Data Protection Act, and/or the General Data Protection Regulation. If requested, the client will prove this in writing.

## Design assignments

Depending on the scope of the order, a maximum number of design proposals and revisions is agreed upon in advance. If the client does not agree with a design proposal, in principle, additional work will be charged. If the client wishes more revisions than have been agreed in principle, in principle additional work will also be charged. The client gives final approval for each part of the design. This final approval will include at least the following elements :

- A confirmation of the final design, which implies that all individual elements have been approved by the client and have therefore been seen by the client;
- A confirmation that adjustments made by us after final approval will be regarded as additional work;

## Retention of title

All matters, including all products or services, made by Agenc for the Client or delivered to the Client are subject to retention of title. Consequently, all matters will remain the property of Agenc until all amounts owed by the Client to Agenc have been paid in full.

The Customer shall not be permitted to restrict or encumber goods that are subject to this retention of title in any way. The customer shall be obliged to inform Agenc within seven (7) days in writing of any attachment by third parties, or of any other rights that third parties wish to establish or enforce against goods subject to this retention of title.

## Intellectual property

Agenc is the owner of all intellectual property rights ("IP rights") that rest or arise on or around all products and services supplied. If the IP rights are held by third parties that have given us permission to use them, the IP rights will at all times remain with the third parties concerned. Agenc grants Customer a non-exclusive and non-transferable right to use IP rights on the products and services. Modification or use in other ways than agreed upon of the delivered products and/or services or enabling third parties to do so is not permitted. Should this be done without the prior consent of Agenc, Agenc will be entitled to compensation of at least three (3) times the regular tariff for this. This is without prejudice to any other rights, including the right to claim damages as a result of such use.

## Confidential information (NDA)

The parties will take as many precautions as possible to keep confidential information secret. If desired, the Client may request Agenc to sign a non-disclosure agreement.

## Offers and tenders

All quotations of Agenc are without engagement and valid for a maximum of four weeks. Quotations are binding if they are made in writing. Should Agenc receive a payment from the customer in connection with a tender, this will be seen as an acceptance of the tender, unless the customer or Agenc notifies Agenc within 48 hours from the first payment concerning that order.

## Rates and payment terms

Agreements will only be entered into by Agenc if a fixed (hourly) rate, or a fixed price, has been agreed upon in advance. Agreements made in this respect do not automatically apply to follow-up assignments of the client.

Rates used by Agenc are always exclusive of VAT unless specified otherwise.

The hourly rates charged by Agenc may be reset by it annually in January.

### Fixed price

Agenc shall not be obliged, if a fixed price has been agreed upon, to perform work before an advance invoice of 40% of the agreed price has been paid. Depending on the progress, another invoice may be drawn up. Prior to delivery, the full amount for the project must be paid.

### Contract

If a continuing performance contract has been agreed upon, monthly costs will always be charged to the client at the beginning of each calendar month, unless agreed upon otherwise.

### Third parties

If third-party products or services are used, the costs thereof may be charged to the client in advance. These costs must be paid in full by the client in advance.

### Payment term

Payment shall be made in full and at the latest within fourteen (14) days of the invoice date. Settlement of amounts invoiced by Agenc is not permitted. If the term of payment, being fourteen (14) days, is exceeded, the customer will automatically and without notice of default be in default. From that moment, statutory interest will have to be paid on the outstanding amount. All costs resulting from late or non-payment by the client shall be borne by the client. Collection costs are always at least 10% of the total invoice amount with a minimum of € 170.00 (one hundred and seventy euros) excluding VAT.

### Payment in installments

If the customer pays in installments, Agenc may (temporarily) suspend the services or the products to be delivered. Agenc can, in such a case, deny the customer access to certain services and/or products, which will only be removed by Agenc once the parties have entered into consultation about the continuation and agreements have been made about this.

## Obligations of the client

When Agenc executes an order, the client must give Agenc:

- Provide all required data and information in a timely manner;
- To cooperate fully;
- Follow explicit instructions given;
- Provide access to relevant products, services, or accounts (such as CRM systems, Google Analytics, etc.);
- To keep the client fully informed in writing of any regulations relevant to the execution of the assignment.

## Termination

If Agenc cannot get in touch with the Client after three (3) attempts to contact him in writing within a period of at least two weeks, Agenc will have the right to terminate the agreement. The hours spent on the order up to that moment will in such a case be charged by the usual hourly rates.

Should the customer fail to deliver the necessary or required data and/or information in time or in accordance with the agreements, or should the customer fail to fulfill his obligations in any other way, Agenc may suspend the (further) performance of the order, after the customer has been notified of this in writing. There will be a recovery period of fourteen (14) days in which the customer can still fulfill the agreements and/or supply the necessary data and/or information. Should Agenc have to incur costs in connection with this, Agenc will have the right to charge such costs at its usual hourly rates.

## Data provided

Agenc is not responsible for the content, accuracy, layout, and/or circulation of any material supplied by the customer.

Agenc cannot be expected to be aware of all the applicable laws and regulations within the branch of the business of the Client. The Client indemnifies Agenc against any liability as well as against any claims of third parties or agencies as a result thereof.

## Use of media

Should media, including images and sound, be distributed, depicted, or shown via or by means of products or services developed by Agenc, the costs related thereto fall outside the tariffs, prices, and/or costs of Agenc and are at all times separately for the account and risk of the Client. The Client indemnifies Agenc in this respect.

## Liability

Agenc is only obliged to pay compensation for damage insofar as this follows from the law (ex art. 6:74 BW / Dutch Civil Code). The damages to be paid by Agenc can never be higher than the amount that Agenc has received for the performance of the agreement, excluding VAT. In the event of a continuing performance contract, such compensation will never be more than the fee received by Agenc in the three (3) months preceding the moment of a possible shortcoming. The amount can never be higher than €2,000 (two thousand euros).

In the event that Agenc or one of its employees or a subordinate for whom Agenc is responsible is guilty of a wrongful act (ex art. 6:162 BW / Dutch Civil Code), Agenc will only be liable for damage that is the consequence of intent or gross negligence on the part of Agenc. The compensation to be paid by Agenc can never be higher than the amount that Agenc has received for the performance of the agreement, excluding VAT. This amount can never be higher than €2,000 (two thousand euros).

Agenc shall not be liable for any consequential loss, loss caused by delay, loss of profit, missed savings, business interruption, loss of data, loss as a result of the failure to meet the delivery date as a result of changed circumstances, loss as a result of insufficient co-operation on following instructions and/or the supply of incorrect and/or incomplete data and/or information.

Agenc can only be held liable for damage if it is informed of this in writing without delay or in any case as soon as reasonably possible after the occurrence of the damage.

## Force majeure

Force majeure may include: strikes, illness, fire, breakdowns, and natural disasters. Force majeure denotes all non-attributable impossibilities to fulfill an obligation: external causes that are not reasonably foreseeable and which ensure that Agenc is not able to fulfill agreements (completely).

In the event of force majeure, the obligations of Agenc shall be suspended. If the force majeure lasts longer than four (4) weeks, one of the parties will be entitled to dissolve the agreement without any judicial intervention, without either party being liable to pay damages to the other party.

If Agenc has already performed work for the customer when the force majeure and/or dissolution occurs, Agenc will be entitled to invoice the customer and the customer will be obliged to pay such invoices. In such a case, this invoice will be deemed to be the result of a separate agreement with Agenc.

## Applicability

If any part of the terms and conditions should prove to be or become invalid, all other parts shall remain in full force. The parties shall consult in order to draw up a replacement provision, taking as a starting point that the purpose and purport of the null and void part is included as much as possible.

These terms and conditions may be amended or supplemented at any time without prior notice. Amendments shall be notified to the relevant parties in writing or by e-mail and shall take effect after thirty (30) days. If the client does not wish to accept the amendment, it may terminate the agreement until the new conditions enter into force. Notice of termination must be given in writing (by e-mail).