

General Terms and Conditions

TRIBAL INTERNET MARKETING B.V.

1. Definitions

- 1.1 General Terms and Conditions: The general terms and conditions as amended from time to time.
- 1.2 Client: Every person, or legal entity, who has concluded, or who wishes to conclude, a contract with contractor.
- 1.3 Contractor: Tribal Internet Marketing B.V.
- 1.4 Parties: Both client and contractor.
- 1.5 Quotation: A written offer from contractor, as supplied and explained to client.
- 1.6 Contract: A document signed by parties which sets out the agreements concerning the work to be carried out by contractor and accepted by client.

2. Applicability

- 2.1 The general terms and conditions are applicable to all acts and legal acts between parties, also if these do not lead to, or are not related to, a contract.
- 2.2 Unless expressly agreed in writing, the applicability of other general terms and conditions is excluded.
- 2.3 Departure from these general terms and conditions is only permitted by express written agreement.
- 2.4 If a condition of the general terms and conditions or a contract appears to be void, or is annulled, this will have no bearing on the applicability of the general terms and conditions or contract as a whole. Parties will consult each other to agree on a new condition to replace the void or annulled condition, whereby the goal and scope of the void or annulled condition will be taken into account as far as possible.

3. Quotation

- 3.1 A quotation from contractor is without obligation for client, unless expressly stated otherwise in writing in the quotation.
- 3.2 A quotation is valid for fourteen days from the date of the quotation, unless stated otherwise in the quotation.
- 3.3 Contractor is bound to the content of a quotation if client agrees in writing to the full quotation within fourteen days of the date of the quotation. If this written agreement takes place after the period of fourteen days, contractor has the right to depart from the quotation.
- 3.4 Client acknowledges that the quotation states correctly and in full the work that is to be carried out by contractor for client and what client can expect, unless this is departed from in writing in the contract.

4. Contract and termination

- 4.1 A quotation confirmed in writing by client for agreement is laid down in a contract.
- 4.2 A contract only becomes effective when signed by both parties.
- 4.3 A contract is concluded for an indefinite period unless otherwise expressly agreed by parties in writing in the contract. The contract for an indefinite period states the actual commencement date of the work.
- 4.4. If a contract is concluded for a definite period, parties agree on an actual commencement date and completion date for the work.
- 4.5 A contract for an indefinite period is terminable by either party. Termination of a contract for an indefinite period takes place by registered post and in accordance with a term of notice of two calendar months.

In accordance with this term of notice, the contract ends two calendar months after the date of registration of the termination.

- 4.6 A contract for a definite period is not prematurely terminable.
- 4.7 Either party can terminate the contract in writing, in whole or in part, with immediate effect and without notice of default, if the other party is granted a moratorium (temporary or otherwise), if a petition for bankruptcy is filed against the other party or if the business of the other party is liquidated or ended otherwise than for the purpose of reconstruction or merger of businesses. Contractor is not liable, on account of this termination, to any restitution of payment already received, nor to any payment of compensation. In the case of bankruptcy of contractor, the right to use the software provided to client lapses by law.

5. Rates

- 5.1 All rates are given in euros and are exclusive of VAT and other levies imposed by the government, unless otherwise agreed.
- 5.2 Contractor reserves the right to apply an inflation correction once a year.
- 5.3 The tables used for this are stated in the quotation and the contract.

6. Payment

- 6.1 Payment must take place within fourteen days of the invoice date, in the way stipulated by contractor in the quotation and the contract.
- 6.2. On expiry of the payment term of fourteen days after the invoice date, client is in default. From the moment default commences, client owes legal interest on the payable amount.
- 6.3 When client is in default of one or more of his payment commitments, all costs for their acquisition are for client's account.
- 6.4 In the case of bankruptcy, liquidation or moratorium, the claims of contractor on client and the obligations of client towards contractor are immediately due and payable.
- 6.5 Payments made by client shall apply in settlement firstly of all interest and costs owing, and secondly of payable invoices in order of the longest outstanding, also if client indicates that settlement concerns a later invoice.
- 6.6 If client is in default of his payment commitments, contractor has the right to postpone or discontinue his work.

7. Changes and extra work

- 7.1 If, at the request of client, or on his own request with prior agreement from client, contractor carries out work that falls outside the content or scope of the contract, this work will be remunerated in accordance with contractor's usual rates. Contractor is in no way bound to accept such a request and he may require a separate written contract to be concluded for that work.
- 7.2 Client accepts that extra work as referred to in article 7.1 may have an influence on the agreed goals and expectations.
- 7.3 Insofar as a fixed rate has been agreed for service, contractor shall, if requested, inform client in writing beforehand about the financial consequences of the extra work.

8. Execution

- 8.1 Contractor shall execute the contract to the best of his insight and abilities.
- 8.2. Contractor cannot guarantee that the work he carries out will necessarily achieve the result desired by client.
- 8.3 Client shall supply on time all details that contractor indicates are necessary for carrying out his work. Should the details necessary for carrying out the work not be supplied to contractor on time, contractor has the right to postpone the execution of the contract.
- 8.4 If it has been agreed that the contract is to be executed in phases, contractor can postpone the execution of parts of a later phase until client has approved and/or paid for the results of the previous phase.

9. Completion

- 9.1 When a term has been agreed in the contract for the completion of certain work, this is always an indicative term, and never a deadline.
- 9.2 If contractor, regardless of the circumstances and causes, expects to exceed a term, contractor shall inform client of this as soon as possible.

10. Secrecy

- 10.1 Secrecy of all confidential information that parties have received from one another within the framework of the contract is mandatory for parties. Information is confidential if stated to be so by the other party or if this can reasonably be determined from the nature of the information.
- 10.2 Contractor has the right to use the name and logo of client as a reference.

11. Exclusivity

For the term of the contract, client gives contractor the exclusive right to execute the assigned job.

12. Intellectual ownership

- 12.1 All intellectual rights of ownership that concern and/or result from the services provided by contractor belong to contractor. Client receives only the user's rights expressly attached to these conditions and the law. Every other or more farreaching right of client is excluded.
- 12.2 The documents supplied by contractor to client are only intended to be used by client. Client is not permitted to make public the information received and/or to copy it in any form whatsoever. This includes adaptation, sale, making available, distribution and – whether adapted or not – integration in networks, with the exception of such copying and/or making public being agreed to in writing by contractor or such copying and/or making public resulting from the nature of the contract with contractor.
- 12.3 All information supplied by contractor remains the property of contractor. On expiry of the contract, contractor can request client to return information supplied, such as reports and documents.
- 12.4 Contractor reserves the right to use information gathered in the process of the work for other purposes, insofar as this does not involve supplying any confidential information from client to third parties.
- 12.5 Client indemnifies contractor against claims from third parties with regard to intellectual rights of ownership.

13. Liability

- 13.1 The total liability of contractor due to attributable failure in fulfilment of the contract is limited to compensation for direct damage to a maximum of the amount agreed for that contract (excl. VAT). If the contract has a term of more than one year, the price agreed for that contract is set at the total of the compensations (excl. VAT) agreed for one year. In no case shall the total compensation for direct damage amount to more than € 200,000 (two hundred thousand Euros). Direct damage is understood to mean only the following:
- reasonable costs to be incurred by client to allow the performance of contractor to fulfil the contract; this replacement damage, however, will not be compensated if the contract is dissolved by, or on the demand of, client;
 - reasonable costs incurred by client for necessarily keeping his old system or systems, and the related facilities, operational for longer due to contractor not completing the work by the final completion date he is bound to, reduced by any savings that result from the delayed completion;
 - reasonable costs incurred for establishing the cause and extent of the damage, insofar as this relates to direct damage

as referred to in these conditions;

- reasonable costs incurred for the prevention or restriction of damage insofar as client can show that these costs have led to restriction of direct damage as referred to in these conditions.
- 13.2 The liability of contractor for damage by death or physical harm, or by material damage, shall never amount to more than € 1,250,000 (one million two hundred and fifty thousand Euros).
- 13.3 The liability of contractor for indirect damage, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business stagnation, loss due to claims of customers of client, mutilation or loss of data, damage linked to use of objects, materials or software from third parties recommended to contractor by client, damage linked to calling in suppliers recommended to contractor by client, and all other forms of damage other than those referred to in articles 13.1 and 13.2, for whatever reason, is excluded unless there is a case of gross negligence or intent.
- 13.4 In all cases, there is only a case of liability of contractor due to attributable failure in fulfilment of a contract if client declares contractor in default, immediately and reliably and in writing, whereby a reasonable term for redemption of the failure is settled, and if contractor is still deemed to be attributable failing in the fulfilment of his obligations after this term. The notice of default must contain as complete and detailed a description as possible of the failure, in order to give contractor an adequate opportunity to react to this.
- 13.5 Any right to compensation depends on the condition that client reports the damage in writing to contractor as soon as possible after the damage has been caused. Any claim against contractor for compensation lapses on the expiry of 12 months after the claim was made.
- 13.6 Client indemnifies contractor for all claims by third parties due to product liability as a result of failure in a product or system that has been supplied by client to a third party and that consisted in part of equipment, software or other materials supplied by contractor, except if and insofar as client can prove that the damage was caused by this equipment, software or other materials.
- 13.7 That specified in this article also applies on behalf of all persons and legal entities in the service of contractor in the execution of the contract.

14. Force majeure

- 14.1 Neither party is obliged to fulfil any commitments if he is prevented from doing so as a result of force majeure. Force majeure is also understood to mean the inadequate fulfilment of obligations on the part of suppliers, as well as faults in objects, materials and software from third parties whose use has been recommended to contractor by client.
- 14.2 Should a force majeure situation last for more than ninety days, parties have the right to terminate the contract by written dissolution. In that case, settlement will be made according to the duration of the work carried out up to then, without parties owing each other anything else.

15. Equipment & Software

Client should ensure equipment and facilities that give access to a network. Client should be able to receive services provided by contractor on this network. Client must bear the costs of communication for this.

16. Transfer

Neither party has the right to transfer the rights and obligations pertaining to this contract to third parties without prior written permission from the other party.

17. Competent court and applicable law

- 17.1 These general terms and conditions and the contracts between parties are subject to Dutch Law.
- 17.2 In the case of all disputes arising from, or connected to, these general terms and conditions and/or the contracts and commitments as referred to in the previous subsection, proceedings shall be instituted in the first instance under the exclusive jurisdiction of the Court of 's-Hertogenbosch.

18. Location

These conditions are registered with the Oost-Brabant Chamber of Commerce and can be digitally downloaded at: http://www.tribal.nl/download/TribalIM_termsconditions.pdf



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