

## GENERAL TERMS AND CONDITIONS OF BRIGHT8 BV

### CLAUSE 1. | DEFINITIONS

In these general terms and conditions, the terms below are defined as follows, to the extent not dictated otherwise by the nature or object of these provisions.

1. Bright8: Bright8 BV, the user of these general terms and conditions, with registered office in Haarlem, entered in the Commercial Register under Chamber of Commerce no. 76518175.
2. Client: the natural person or legal entity, which is in any event acting in the practice of a profession or conduct of a business, with which Bright8 has concluded or intends to conclude an agreement.
3. Agreement: every agreement established between Bright8 and the client, whereby Bright8 commits to the client to provide services, perform work and/or sell and/or deliver products.
4. Work: all work to be performed or services to be provided by or on behalf of Bright8 in the context of the agreement, such as, but not limited to, design and production work, the performance of (online) marketing services and media purchasing.
5. Products: all items to be designed for the client and/or delivered to the client in the context of the agreement, such as, but not limited to, printed matter, websites and online marketing material.
6. Written/In writing: both traditional written communication and communication by email.

### CLAUSE 2. | GENERAL PROVISIONS

1. These general terms and conditions apply to every offer by Bright8 and every agreement established.
2. These terms and conditions also apply to all agreements for the performance of which third parties are engaged.
3. The applicability of the client's general terms and conditions or any other terms and conditions of the client is explicitly rejected.
4. The provisions in these general terms and conditions can only be deviated from in writing. If and to the extent what the parties have explicitly agreed on in writing deviates from the provisions in these general terms and conditions, the explicit agreements the parties have made in writing apply.
5. If one or more of these provisions is void or voidable, this does not affect the validity of the other provisions. In cases that arise, the parties are required to consult with each other in order to arrive at a replacement for the affected provision. The purport and tenor of the original provision will be taken into account as much as possible.

### CLAUSE 3. | OFFER AND ESTABLISHMENT OF THE AGREEMENT

1. Unless a period for acceptance is stated therein, every offer from Bright8 is without obligation.
2. Offers from Bright8 do not automatically apply to subsequent agreements.
3. The client cannot derive any rights from an offer based on inaccurate or incomplete data provided by the client. The client also cannot derive any rights from an offer from Bright8 that contains obvious errors or mistakes.
4. The agreement is established as the result of an offer and subsequent acceptance. If the client's acceptance deviates from Bright8's offer, the agreement is not established in accordance with this deviating acceptance, unless Bright8 indicates otherwise.
5. A composite price list does not obligate Bright8 to comply with part of the offer in exchange for a corresponding part of the price listed.
6. If the client (also) concludes the agreement on behalf of another natural person or legal entity, by entering into the agreement it declares it is authorised to do so. The client is - alongside this natural person or legal entity - jointly and severally liable for compliance with the obligations under the agreement.

## **CLAUSE 4. | TIME PERIODS AND THIRD PARTIES**

1. Bright8 endeavours at all times to comply with the performance and/or completion or delivery periods agreed on between the parties. However, all time periods cited by Bright8 can only be regarded as indicative, not as deadlines. Bright8 is not in default until the client has given Bright8 written notice of default in which it gives Bright8 a reasonable time frame in which to comply with the agreement and compliance is still not forthcoming after the time frame just mentioned has expired.
2. Agreed time periods do not commence before Bright8 has received from the client all the information necessary for performance of the agreement.
3. Bright8 is at all times authorised to have the entire agreement or part thereof performed by third parties. The applicability of articles 7:404 and 7:407 (2) of the Dutch Civil Code is excluded.

## **CLAUSE 5. | CLIENT'S OBLIGATION TO INFORM**

The client is required to provide Bright8 in a timely manner with all information which Bright8 indicates is necessary or which the client should reasonably understand to be necessary for the proper performance of the contract. If the information necessary for performance of the contract is not provided to Bright8 on time, Bright8 has the right to suspend performance of the agreement and/or charge the client for the extra costs arising from the delay at the usual rates applicable at that time.

## **CLAUSE 6. | PERFORMANCE OF AGREEMENTS IN GENERAL**

1. Bright8 will perform agreements to the best of its knowledge and ability and in accordance with high standards. To the extent the nature and/or purport of the obligation does not necessarily prevent this, Bright8 exclusively undertakes a best-efforts obligation, however. Bright8 cannot, for instance, with regard to marketing campaigns, among other activities, guarantee that the results that the client envisions when entering into the agreement will be achieved.
2. If it has been agreed that the agreement will be performed in phases, Bright8 can postpone the performance of those parts of the agreement that belong to the next phase until the client has approved the results of the preceding phase in writing.
3. If, in the context of the agreement, work is performed at the client's location or at another location designated by the client, the client must ensure that the persons put to work there by Bright8 can make use free of charge of the facilities reasonably desired at that location.

## **CLAUSE 7. | DESIGN ASSIGNMENTS AND PRODUCTION**

1. Product features described in the offer or in draft designs in relation to products to be designed and/or produced may deviate on insignificant points from what is actually delivered. Among others, all minor deviations in properties such as colours, sizes, quantities and weights are considered insignificant points which the client should reasonably tolerate. The presence of such deviation does not give the client grounds to suspend its obligations under the agreement, dissolve the agreement wholly or in part, or demand damage compensation or any other compensation.
2. Final designs submitted are regarded as answering to the agreement if they have been produced in accordance with the draft designs approved by the client or, in the absence of draft designs, the assignment specifications provided by the client.

## **CLAUSE 8. | DELIVERY OF PHYSICAL PRODUCTS**

1. If, in the context of the agreement, physical, non-digital products are supplied to the client or to third parties designated by it, such as brochures, advertisements, billboards or street advertising, this clause applies, without prejudice to the provisions elsewhere in these general terms and conditions.
2. Unless explicitly agreed otherwise, the products are supplied by means of delivery to the delivery address reported by the client. In the absence of a delivery address, the invoice address is regarded as the delivery address.
3. Unless explicitly agreed otherwise, Bright8 decides on the mode of transport and the product packaging.

4. The risk of the loss of or damage to the products transfers to the client at the moment the products are received by the client or by a third party designated by it.
5. The client is required to take the purchased products at the moment they are made available to it or delivered to it. If the client refuses to take the products for any reason whatsoever, or is negligent in providing information or instructions necessary for the delivery, the products will be stored at the client's expense and risk after Bright8 has warned it about this. In that case, the client owes not only the purchase price, but also the reasonable costs for storage of the products.
6. Bright8 is permitted to deliver orders in partial deliveries. If the orders are delivered in partial deliveries, Bright8 has the right to invoice separately for each partial delivery.

## **CLAUSE 9. | DOMAIN NAME REGISTRATION AND HOSTING**

1. Bright8 only acts as intermediary in the registration of a domain name and will file the application for the particular domain name with the agency responsible for this. Bright8 is not liable for any application not accepted by this agency.
2. The time frame for the requested domain name to become active depends on third parties. The time periods reported by Bright8 in this respect are only indicative. The client can never derive rights from this.
3. The domain name registration takes place in the client's name. The client is fully responsible for the use of the domain and the domain name. The client indemnifies Bright8 against any third-party claim in connection with the registration and use of this domain name.
4. Unless agreed otherwise in writing, the agreement for hosting and domain name registration is entered into for the term of one year.
5. After the agreed term has expired, the agreements as referred to in paragraph 4 are tacitly renewed, each time for a term equal to the original term, unless the agreement is cancelled on time in accordance with paragraph 6.
6. Cancellation must take place in writing with due observance of a notice period of one month.
7. If the cancellation notice from the client is not received on time, the agreement ends on the next possible end date.
8. If, after repeated requests, the client does not comply with its payment obligation, Bright8 is entitled to dissolve or suspend the agreements as referred to in paragraph 4 with immediate effect, without prejudice to its right to demand compliance with the agreement. In the event of suspension, the performance of the agreement will not resume until the amount owed has been paid in full. The suspension of Bright8's service provision will only be lifted after the client complies with its obligations within a time frame stipulated by Bright8.
9. After the agreed term has expired, Bright8 is entitled each time to adjust the agreed price for hosting and domain name registration. Bright8 will notify the client of a price increase no later than two months before the price increase takes effect.

## **CLAUSE 10. | AMENDMENT OF THE ASSIGNMENT AND ADDITIONAL WORK**

1. If it emerges during the performance of the work that proper completion of the work makes it necessary to amend or supplement the agreement, the parties will amend the agreement in a timely fashion and in mutual consultation. If the nature, scope and/or content of the agreement is amended in a qualitative and/or quantitative respect, this could have consequences for what was originally agreed. The originally agreed price may be increased or reduced as a result. Bright8 will report the price in advance to the extent possible.
2. If the client requests additions or changes to what has been agreed, the extra costs relating to these are at the client's expense. Bright8 will inform the client in a timely fashion about the necessity of charging on the costs referred to here, unless the client should have understood this necessity itself.
3. An amendment of the agreement can alter the originally reported period in which it is to be performed. The client accepts the possibility of amendment of the agreement, including the change to the price and period in which it is to be performed. If the agreement is amended or supplemented, Bright8 is entitled to wait to implement these amendments or additions until the client has approved the adjusted price and other terms and conditions, including the time to be decided at which the work will be performed. The failure to perform

the amended agreement, or failure to do so immediately, does not constitute breach on Bright8's part and does not constitute grounds for the client to dissolve the agreement.

4. If, after the agreement is established, circumstances that increase the cost price arise or come to light and these circumstances can be attributed to the client on grounds of inaccurate information provided by it, the extra costs are at the client's expense, unless Bright8 should have discovered the inaccuracy of the information provided by the client prior to determining the price. Bright8 will inform the client in a timely fashion about the necessity of charging on the costs referred to here.
5. Without thus being in default, Bright8 can refuse a request to amend the agreement if compliance with the amended agreement cannot reasonably be expected of it.
6. Notwithstanding provisions elsewhere in this clause, agreements that result in additional work are made in consultation and set down in writing as much as possible.

## **CLAUSE 11. | COMPLAINTS AND GUARANTEE**

1. The client has 14 days from completion/delivery in which to give written, substantiated notice of presumed defects. If Bright8 considers a complaint in this respect to be justified, Bright8 will endeavour to remedy the defects in consultation with the client. If no defects are reported to Bright8 within the time frame referred to in the first sentence, whatever has been completed/delivered is regarded as approved by the client and any possibility of complaint lapses. Inaccurate information provided by the client which results in defects in what has been completed/delivered does not constitute grounds for complaint.
2. Complaints do not suspend the client's obligations.
3. The client can exclusively make claims under any manufacturer's guarantee given by the manufacturer of the products, which guarantee is handed over to the client.
4. Without prejudice to the guarantee terms and conditions explicitly stipulated, the guarantee provided in any event lapses if a defect is the result of an external cause or cannot for the rest be attributed to Bright8 or its suppliers. This includes, but is not limited to, defects resulting from damage, incorrect or inexpert use and use at odds with the instructions for use or other instructions given by or on behalf of Bright8.
5. In order to enforce any claim it may have under the guarantee, the client must lodge a complaint concerning the defect with Bright8 within one month after discovering the defect.
6. Physical products supplied can only be returned to Bright8 after prior written permission. Products are returned at the client's expense.

## **CLAUSE 12. | FORCE MAJEURE**

1. Bright8 is not required to comply with any obligation under the agreement if and as long as it is prevented from doing so by a circumstance which cannot be attributed to it either pursuant to law, a legal act or according to generally accepted views.
2. If the situation of force majeure makes compliance with the agreement permanently impossible, or lasts or will last more than three months, the parties are entitled to dissolve the agreement with immediate effect.
3. If, when the force majeure takes effect, Bright8 had already complied with its obligations in part or can only comply with its obligations in part, it has the right to invoice separately for the part of the agreement already performed or the part of the agreement that can be performed as if an independent agreement were involved.
4. Damage resulting from force majeure is never eligible for compensation.

## **CLAUSE 13. | SUSPENSION AND DISSOLUTION**

1. If the circumstances justify this, Bright8 is authorised to suspend performance of the agreement or dissolve the agreement with immediate effect if the client fails to comply with its obligations under the agreement, or fails to do so fully or on time, or if circumstances that come to Bright8's attention after concluding the agreement give good reason for it to fear that the client will not comply with its obligations.
2. If the client is in a state of bankruptcy, any attachment is levied on its assets or in cases in which the client is otherwise unable to freely dispose of its property, Bright8 has the right to dissolve the agreement with immediate effect, unless the client has already furnished satisfactory security for the payments.

3. Bright8 is also authorised to dissolve the agreement if circumstances arise which are of such a nature that compliance with the agreement is impossible or such that Bright8 cannot reasonably be expected to follow through on the agreement without amendment.
4. The client never has claim to any form of damage compensation in connection with the right of suspension or dissolution exercised by Bright8 on grounds of this clause.
5. To the extent this can be attributed to it, the client is obligated to compensate the damage that Bright8 suffers as a result of the suspension or dissolution of the agreement.
6. If Bright8 dissolves the agreement on grounds of this clause, all claims it has on the client are immediately exigible.
7. Cancellation of the agreement will result in penalty payments of 100% of the value of the agreement.

## **CLAUSE 14. | PRICES AND PAYMENTS**

1. All prices cited by Bright8 are excluding VAT, unless explicitly stated otherwise.
2. If, after the agreement is established, increases occur in VAT rates or other government levies, Bright8 is entitled to adjust the agreed prices accordingly.
3. Bright8 is also entitled to pass on to the client price increases in cost price-determining factors which manifest after the agreement has been established.
4. Bright8 can adjust prices for media purchasing until 24 hours before placement. Bright8 will notify the client in a timely fashion by email of such price adjustments.
5. Changes in agreed prices other than those referred to in paragraphs 2, 3 and 4 will be announced by Bright8 at least 30 days in advance. Without prejudice to the provisions in clause 9.9, the client has the right to terminate the agreement from the moment that the adjusted rates take effect.
6. Bright8 is at all times entitled to demand that the agreed price be paid entirely or partially by means of advance payment. The obligation to pay the full price in advance applies in any event to assignments relating to website design, in which case the client must make payment within 10 days after invoice date.
7. Bright8 is not required to perform (or continue performing) the agreement until after Bright8 has received the advance payment demanded.
8. Unless explicitly agreed otherwise, all payments take place by bank transfer, within the time period cited on the invoice, in the manner prescribed by Bright8.
9. If payment is not made on time, the client is in default by operation of law. From the day that the client is in default, the client owes interest of 1% per month on the outstanding amount, whereby part of a month is counted as a full month. The client also owes Bright8 € 50 in default charges.
10. Complaints concerning invoice amounts never suspend the client's payment obligation.
11. If the client enters liquidation, becomes bankrupt or is granted a moratorium on payments, the claims on the client are immediately exigible.
12. All reasonable costs, including court costs, extrajudicial costs and enforcement costs, incurred in securing the amounts owed by the client are at the client's expense.

## **CLAUSE 15. | LIABILITY AND INDEMNITY**

1. Except in the case of intent and wilful recklessness on the part of Bright8, Bright8 is never liable for damage resulting from the loss, mix-up or damage of/to data and other information. Bright8 is never liable for damage resulting from third-party hacking of the client's websites, other software and email accounts provided by Bright8, whether or not this was due to inadequate security of these email accounts, websites, other software or parts thereof.
2. Bright8 is never liable for damage for which the manufacturer of the products bears product liability.
3. Bright8 is not liable for damage resulting from maintenance to be performed on servers and other systems on which Bright8's service provision depends.
4. Except in the case of intent and wilful recklessness on the part of Bright8, Bright8 is not liable for damage resulting from programming errors in the websites and other software. Bright8 is also not liable for viruses or other harmful components that cause damage to the hardware or software of the client or third parties.

5. Bright8 makes every reasonable effort to secure the software supplied and its systems against any form of unlawful use by third parties. Bright8 is never liable, however, for third-party infringements of the client's (intellectual property) rights.
6. To the extent that, in the context of the agreement, Bright8 depends on cooperation, services and deliveries from third parties, on which Bright8 can exert little or no influence, Bright8 can in no way be held liable for any damage whatsoever arising from these relationships with Bright8 or the breakdown thereof, regardless of whether this damage arises or becomes visible during the relationship with Bright8.
7. In the event of attributable failure in compliance with the agreement, Bright8 is only liable for alternative damage compensation up to the invoice amount. Any liability on Bright8's part for any other type of damage is excluded, including compensation of indirect and consequential damage, which includes damage on account of losses suffered, lost turnover or profit and business interruption.
8. The client must take into account that information sent via the internet can be viewed by third parties. Bright8 cannot be held liable for damage in any form whatsoever caused by the sending of confidential or secret information.
9. Bright8 is not responsible or liable for the content of the material supplied by the client for posting on the client's website.
10. The client must notify Bright8 in writing without delay of any changes in the client's details to the extent this is reasonably called for in the context of the agreement. If the client fails to do this, the client is fully liable for any damage caused as a result and suffered by Bright8.
11. Bright8 is not liable for damage caused to websites it has provided when this damage has been caused by the client or by third parties in an evident attempt to maintain the websites.
12. In the event the client has any claims on grounds of shortcomings by third parties engaged by Bright8, the client must make every effort to reach an amicable solution of the dispute with those third parties. If the client wishes to commence legal proceedings on grounds of such a claim, the client, to the exclusion of Bright8, must sue this third party in court before enforcing any rights it has against Bright8.
13. Bright8 bears no liability for damage caused by incorrect or inexpert use by the client or third parties of the products supplied by Bright8.
14. The client is responsible for the damage caused by:
  - Inaccuracies in the information provided by the client;
  - Any other shortcoming in compliance with the client's obligations arising from the law, the agreement or these general terms and conditions;
  - Another circumstance which cannot be attributed to Bright8.
15. If, despite the provisions in these general terms and conditions, there is nonetheless liability, exclusively direct damage is eligible for compensation. Direct damage is understood to exclusively include:
  - the reasonable costs to ascertain the cause and scope of the damage, insofar as the ascertainment relates to damage which is eligible for compensation in the sense of these terms and conditions;
  - any reasonable costs incurred to ensure that Bright8's faulty performance answers to the agreement, insofar as these can be attributed to Bright8;
  - reasonable costs incurred to prevent or limit damage, insofar as the client demonstrates that these costs resulted in limitation of damage which is eligible for compensation in the sense of these terms and conditions.
16. Bright8's liability will never exceed the amount which is paid out with regard to the particular event under any liability insurance Bright8 has taken out.
17. Without prejudice to the provisions elsewhere in these general terms and conditions, the limitation period for all claims and defences against Bright8 is one year.
18. Except in the event of intent or wilful recklessness on the part of Bright8, the client will indemnify Bright8 for all third-party claims, on any grounds whatsoever, for compensation of damage, costs or interest related to the performance of the agreement by or on behalf of Bright8, as well as the use of products supplied by or on behalf of Bright8.

## **CLAUSE 16. | CONFIDENTIALITY**

1. Notwithstanding the provisions in the next clause, Bright8 will not provide any of the client's personal data to third parties without being required to do so by law. This also applies for any other confidential information which has been provided to Bright8 for the purposes of the performance of an agreement.
2. Bright8 is free to refer to the end products supplied to the client as a reference for promotional purposes, unless explicitly agreed otherwise.
3. Bright8 reserves the right to place a discrete reference to Bright8's website on a website it has supplied, unless explicitly agreed otherwise.
4. Bright8 reserves the right to use knowledge increased through performance of the work for other purposes, to the extent this does not bring any confidential information to the attention of third parties.

## **CLAUSE 17. | STORAGE AND SAVING OF DATA**

1. The data supplied by the client may be provided to third parties if and to the extent this is necessary for performance of the agreements. The third parties to whom the data are provided will treat these data confidentially. In no circumstances will the data received from the client be sold.
2. The digital data which Bright8 has received from the client and are to be stored will be stored on an appropriately secured and backed-up server at Bright8's office. All open files will be saved and carefully stored and processed until two years after the agreement has been terminated.

## **CLAUSE 18. | RETENTION OF OWNERSHIP AND RIGHT OF USE**

1. The client does not become the owner of or acquire the right of use to the products and work supplied until the moment it has satisfied all its obligations towards Bright8.
2. The client is prohibited from selling, pledging or in any other way encumbering the products which are subject to the retention of ownership, except to the extent this must be considered permissible in the context of its normal business operations.
3. If third parties levy attachment on the products which are subject to the retention of ownership or wish to establish or enforce rights to these products, the client is required to inform Bright8 of this as soon as possible.
4. In the event the retention of ownership relates to physical products, the client gives Bright8 or third parties designated by Bright8 permission to enter all those locations where the products which are subject to the retention of ownership are held. In the event of default on the part of the client, Bright8 is entitled to recover the products referred to here. All reasonable costs in relation to this are at the client's expense.

## **CLAUSE 19. | INTELLECTUAL PROPERTY**

1. Bright8 or its licensors reserve the industrial and intellectual property rights to all designs produced and/or supplied by them, in any form whatsoever. The client is prohibited from reproducing, copying or using the designs or parts thereof in a manner other than that provided for in the agreement or allowing such reproduction, copying or use.
2. The ideas, drafts or (technical) designs provided by Bright8 remain entirely Bright8's property, unless explicitly agreed otherwise in writing. In the latter case, Bright8 can demand compensation in return. If it emerges that the aforementioned ownership has been infringed, Bright8 has the right to charge compensation for this, in an amount to be stipulated by Bright8 but which is nonetheless reasonable.

## **CLAUSE 20. | THIRD-PARTY POLICIES AND CHANGES TO THESE**

Bright8's service provision may involve the use of third-party services. Consequently, the general terms and conditions, privacy and cookie policy of the particular third parties may also apply. Bright8 is not responsible for the terms and conditions and policy of these third parties, or any changes thereto. The client cannot enforce any claim against Bright8 in relation to this.

## **CLAUSE 21. | AMENDMENTS TO THESE GENERAL TERMS AND CONDITIONS**

1. Bright8 reserves the right to amend or supplement these general terms and conditions.
2. Amendments apply also with respect to agreements already concluded, with due observance of a 30-day period after the changes have been announced in writing.
3. If the client does not agree with the amended general terms and conditions, it has the right to terminate the agreement with effect from the date of amendment of the general terms and conditions or within 7 days after the date on which the amendment to the general terms and conditions was received, if this receipt date was after the effective date of the change, all unless Bright8 indicates that is willing to continue the agreement under the originally agreed conditions.

## **CLAUSE 22. | FINAL PROVISIONS**

1. Neither Bright8 nor the client is entitled to transfer its rights or obligations under the agreement to a third party without the other party's advance written permission.
2. Every agreement and all legal relationships between the parties arising from it are exclusively governed by the law of the Netherlands.
3. The parties will only turn to the court after they have done their utmost to settle a dispute in mutual consultation.
4. All disputes arising directly or indirectly from the agreement or in connection with it can exclusively be submitted to the competent court in Amsterdam. Subject to evidence to the contrary, the administrative data held by Bright8 are decisive.
5. The Dutch text of these general terms and conditions is always decisive for the interpretation thereof.