

Terms & Conditions

.brandijzers

1. Definitions

1.1 In these general terms and conditions, unless expressly stated otherwise, the following terms are used in the following meanings:

- **Services:** all services offered and performed by Brandijzers and third parties / employees engaged by it for the Client, including but not limited to (i) services in support of the Client in the development and implementation of internet-based business solutions and websites, including on the basis of of the CMS Drupal CMS, (ii) WordPress and (iii) Hosting services.
- **Hosting services:** the hosting services to be operated by Brandijzers, whereby information to be made available by the Client can be consulted and / or with which electronic information can be exchanged and websites can be hosted; the registration and holding of domain names, the renting of web server space, and all other additional and supporting products and services.
- **Client:** the counterparty / client of Brandijzers
- **Agreement:** every mutual acceptance, confirmed in writing (including by e-mail), of delivery of one or more Services by Brandijzers.
- **Parties:** Client and Brandijzers
- **Brandijzers or Brandijzers.nl:** are trade names of the company Tiger Roots Consultancy, registered with full liability, established in Amsterdam and registered in the Chamber of Commerce under number 62150219 and user of these Conditions.
- **Conditions:** these general conditions.

2. General

2.1 These terms and conditions apply to every offer, quotation and Agreement, insofar as the Parties have not deviated explicitly and in writing from these Terms and Conditions.

2.2 The Conditions also apply to all Agreements for the execution of which third parties must be involved.

2.3 The applicability of any purchase or other conditions of the Client is explicitly rejected.

2.4 If one or more provisions in these Terms and Conditions are null and void or have been declared void, the other provisions of these Terms and Conditions will remain fully applicable. In such a case, the parties will consult with each other in order to agree on new provisions to replace the null and void or nullified provisions, whereby the purpose and intent of the original provision will be taken into account if and insofar as possible.

3. Offers and quotations

3.1 The offers made by Brandijzers and made offers are without obligation; they are valid for 30 days, unless stated otherwise. Brandijzers is only bound to an offer if the acceptance thereof has been confirmed by the Client in writing within 30 days, unless stated otherwise.

3.2 If the acceptance deviates from the offer included in the quotation, Brandijzers is not bound by it. The Agreement will then not be concluded in accordance with this deviating acceptance, unless Brandijzers indicates otherwise.

3.3 A composite quotation does not oblige Brandijzers to perform part of the Service (s) against a corresponding part of the stated price.

3.4 Offers or quotations do not automatically apply to future Assignments.

4. Execution of the agreement

4.1 Brandijzers will execute the Agreement to the best of its knowledge and ability. All this on the basis of the current state of knowledge at that time.

4.2 In so far as proper execution of the Agreement so requires, Brandijzers has the right to have certain work carried out by third parties.

4.3 Brandijzers shall take care in the performance of the Assignments given to it and in the selection of third parties to be engaged by it, which in the given circumstances can reasonably be expected of it. Brandijzers is not responsible for achieving the intended result. Brandijzers is not liable for a shortcoming or wrongful act of an engaged third party.

4.4 When engaging third parties, Brandijzers will enter into a non-disclosure agreement with third parties in the context of protecting sensitive information from the Client.

4.5 Brandijzers is not liable for damage of any kind, because Brandijzers assumed incorrect and / or incomplete information provided by the Client, unless this inaccuracy or incompleteness should have been known to Brandijzers.

4.6 If it has been agreed that the Agreement will be executed in stages, Brandijzers may suspend the execution of those parts that belong to a following phase until the Client has approved the results of the preceding phase in writing.

4.7 If work is carried out by Brandijzers or third parties engaged by Brandijzers in the context of the Services at the location of the Client or a location designated by the Client, the Client shall provide the Customer with reasonable care

4.8 The Client indemnifies Brandijzers against any claims by third parties that suffer damage in connection with the performance of the Agreement and which can be attributed to the Client.

5. Modification of the agreement

5.1 If it appears during the execution of the Agreement that it is necessary for a proper execution to modify or supplement the work to be performed, the Parties will adjust the Agreement accordingly in a timely manner and in mutual consultation.

6. Contract duration; execution time

6.1 The Agreement between Brandijzers and the Client is entered into for an indefinite period of time, unless the nature of the Agreement dictates otherwise or the Parties expressly agree otherwise in writing.

6.2 If an Agreement has been agreed for a fixed term, the Agreement will always be tacitly renewed for the same period as the previous Agreement, unless otherwise agreed in writing.

6.3 If a term has been agreed within the term of the Agreement for the completion of certain work, this is never a strict deadline. In the event that the execution period is exceeded, the Client must therefore declare Brandijzers in default in writing. In the event of delay, the Client will reimburse the extra time / work to Brandijzers in accordance with the same rates, unless the delay is caused by intent or gross negligence on the part of Brandijzers.

7. Honorarium

7.1 Parties can agree on a fixed fee when the Agreement is concluded.

7.2 If no fixed fee is agreed, the fee will be determined on the basis of actually spent hours. The fee is calculated according to the usual hourly rates of Brandijzers, applicable for the period in which the Services are performed, unless a deviating hourly rate has been agreed upon.

7.3 The fee is and any cost estimates are, unless expressly stated otherwise, exclusive of VAT and other government levies, as well as any unforeseen costs.

7.4 In the case of Agreements with a term of more than two months, the costs owed will be charged periodically.

7.5 Brandijzers is entitled to increase its prices / rates annually. Increases up to and including 4% can be made unilaterally by Brandijzers and are automatically accepted by the Client. Larger interim increases must be agreed in advance between the Parties.

7.6 The rates of Brandijzers are calculated per project, for reasons of emergency work, overtime and work during the weekend, Brandijzers charges a surcharge of 50%. Brandijzers has a tolerance of 15% on budgets. In addition, a surcharge of 18% is charged for purchases from third parties, unless agreed otherwise.

8. Payment

8.1 Payment of Services delivered by Brandijzers must be made within 14 days of the invoice date, in a manner to be indicated by Brandijzers in the currency in which it is declared. Work in accordance with the Agreement is started after payment of the starting invoice for 50% of the total amount, unless otherwise agreed. Objections against the amount of the invoices do not suspend the payment obligation.

8.2 If the Client fails to pay any amount owed by him on time, or if the Client requests suspension of payments or is declared bankrupt, Client shall be in default by operation of law, without notice of default being required. In that case, all claims of Brandijzers are immediately due and payable in full. If, as a result of the aforementioned events, the services of Brandijzers is discontinued before the end of a calendar month, Brandijzers shall nevertheless be entitled to charge its rate for a full month. Client will then owe interest of 1% per month, unless the statutory interest rate is higher, in which case the statutory interest rate applies. The interest on the due and payable amount will be calculated from the moment that the Client is in default until the moment of payment of the full amount.

8.3 All extrajudicial and judicial costs relating to the collection are at the expense of the Client. All related extrajudicial costs are determined in accordance with the collection rate of the Voorwerk II report drawn up by the Dutch Association for the Judiciary, unless the actual costs are higher. In that case, the Client must pay the costs actually incurred to Brandijzers.

8.4 Brandijzers has the right to have the payments made by the Client go first of all to reduce the costs, then to reduce the interest still due and finally to reduce the principal sum and the current interest. Brandijzers can, without being in default, refuse an offer of payment if the Client designates a different order for the allocation. Brandijzers can refuse full payment of the principal sum, if not also the interest and accrued interest as well as the costs are paid.

8.5 Over the time that the Client has been in default with the payment, Brandijzers may charge the (statutory) interest on the amount owed to it.

9. Reservation of ownership

9.1 All items delivered by Brandijzers, including designs, sketches, drawings, films, software, (electronic) files etc., etc., remain the property of Brandijzers until a phase as formulated in this quotation has been completed.

9.2 The Client is not entitled to pledge the items that fall under the retention of title or to encumber them in any other way.

9.3 If third parties seize the goods delivered under retention of title or wish to establish or assert rights thereon, the Client is obliged to notify Brandijzers as soon as reasonably may be expected.

10. Complaints

10.1 Complaints about the Services performed must be reported in writing to Brandijzers by the Client within 8 days of discovery, but no later than 14 days after completion of the relevant Services, failing which the Client shall be deemed to have agreed to the entire invoice. The notice of default must contain as detailed a description as possible of the shortcoming, so that Brandijzers is able to respond adequately.

10.2 If the Client disputes the correctness of a part of an invoice, he is nonetheless obliged to pay the undisputed part. The Client is not entitled to rely on set-off / set-off.

10.3 If a complaint is well-founded, Brandijzers will still perform the Services as agreed, unless this has become demonstrably pointless for the Client. The latter must be made known by the Client in writing and substantiated. Brandijzers will assess whether this is actually the case.

10.4 If the performance of the agreed Services is no longer possible or useful, Brandijzers will only be liable within the limits of Article 13, unless this is the result of activities performed by the Client himself or by third parties engaged by the Client.

11. Cancellation

11.1 Both Parties can terminate the Agreement in writing at any time unless otherwise agreed.

11.2 If the Agreement is terminated prematurely by the Client, Brandijzers shall be entitled to compensation on account of the resulting loss of occupancy and plausibility, unless there are facts and circumstances underlying the termination that can be demonstrably attributed to Brandijzers. Furthermore, the Client is then obliged to pay the invoices for Services performed up to that time. The preliminary results of the Services performed up to that time will therefore be made available to the Client with reservation.

11.3 If the Agreement is prematurely terminated by Brandijzers, Brandijzers will, in consultation with the Client, ensure the transfer of work still to be performed to third parties, unless there are facts and circumstances underlying the termination that can be attributed to the Client. If the transfer of the work for Brandijzers entails extra costs, these will be paid to the Client.

12. Suspension and dissolution

12.1 Brandijzers is authorized to suspend compliance with the obligations under the Agreement or to dissolve the Agreement if:

- the Client does not or not fully comply with the obligations under the Agreement;
- After the conclusion of the Agreement, Brandijzers becomes aware of circumstances that give good grounds to fear that the Client will not fulfill its obligations. In the event that there is good reason to fear that the Client will only partially or improperly fulfill its obligations, the suspension is only permitted insofar as the shortcoming justifies it; or
- Client has been requested at the conclusion of the Agreement to provide security for the fulfillment of its obligations under the Agreement and this security is not provided or is insufficient.

12.2 In addition, Brandijzers is authorized to dissolve the Agreement (or have it dissolved) if circumstances arise which are of such a nature that compliance with the Agreement can not be demanded or, according to standards of reasonableness and fairness, can be demanded or if circumstances arise of such nature that the unaltered maintenance of the Agreement can not reasonably be expected.

12.3 If the Agreement is dissolved, the claims of Brandijzers on the Client are immediately due and payable. If Brandijzers suspends the fulfillment of the obligations, he retains his rights under the law and the Agreement.

12.4 Brandijzers always reserves the right to claim compensation.

13. Liability

13.1 The Client is entitled to compensation for the direct damage suffered by the Client, which is legally the result of an event or a series of related events for which Brandijzers is legally liable;

- if Brandijzers benefits from any insurance coverage for that damage, at most up to an amount equal to the insurance payment to be obtained by Brandijzers plus the excess of Brandijzers under that insurance; or
- if Brandijzers does not enjoy any cover under an insurance policy for that damage, up to an amount equal to the fee excluding VAT and additional costs incurred by Brandijzers in the year in which the event (s) took place when the relevant Service was granted (and) has been invoiced to the Client and paid to Brandijzers by the Client.

13.2 Brandijzers is never liable for indirect damage, including consequential damage, loss of profit, missed savings and damage due to business stagnation.

13.3 Without prejudice to the provisions of Article 6:89 of the Dutch Civil Code, the Client's right to compensation shall in any event lapse 1 year after the date of the event from which the damage arises directly or indirectly and for which Brandijzers is liable.

13.4 The limitations of liability for direct damage included in these Terms and Conditions do not apply if the damage is due to intent or gross negligence of Brandijzers or its subordinates

14. Indemnities

14.1 The Client indemnifies Brandijzers against claims from third parties relating to intellectual property rights on materials or data provided by the Client that are used in the performance of the Agreement.

14.2 If the Client provides Brandijzers with information carriers, electronic files or software etc., the latter guarantees that the information carriers, electronic files or software are free of viruses and defects and that the Client has a valid software license. The Client indemnifies Brandijzers against any resulting damage.

15. Risk transition

15.1 The risk of loss or damage of the items that are the subject of the Agreement will pass to the Client at the moment at which they are legally and / or actually delivered to the Client and thus in the power of the Client or of a to be designated by the Client. third parties.

16. Force majeure

16.1 The parties are not obliged to fulfill any obligation, if they are prevented from doing so as a result of a circumstance that is not due to fault, and not under the law, a legal act or generally accepted for their account.

16.2. Force majeure means in these Conditions in addition to what is understood in the law and jurisprudence, all external causes, foreseen or not foreseen, on which Brandijzers can not exert influence, but as a result of which Brandijzers is unable to meet the obligations. Work strikes in the company of Brandijzers are included.

16.3 Brandijzers also have the right to invoke force majeure if the circumstance that prevents (further) performance occurs after Brandijzers should have fulfilled its obligations.

16.4 During the period that the force majeure continues, the parties can suspend the obligations under the Agreement. If this period lasts longer than two months, each of the Parties is entitled to dissolve the Agreement, without any obligation to compensate the other Party for damage.

16.5 In so far as Brandijzers has at the time of the occurrence of force majeure partially fulfilled its obligations under the Agreement or will be able to comply with them, and the part to be fulfilled or to be fulfilled is independent value,

Brandijzers are entitled to declare the part already fulfilled or to be fulfilled separately. The Client is obliged to pay this invoice as if it were a separate Agreement.

17. Confidentiality

17.1 Both Parties are obliged to keep confidential all confidential information that they have received from each other or from another source within the framework of the Agreement. Information is confidential if this has been explicitly stated by the other Party or if this can logically be based on the nature of the information and this information is not publicly accessible.

17.2 In the event, pursuant to a statutory provision or court order, one of the Parties is obliged to provide confidential information to third parties designated by the law or the competent court, and Brandijzers can not rely on a legal or the competent court recognizes or authorizes the right to change, then Brandijzers is not obliged to pay damages or compensation and the other Party is not entitled to dissolve the Agreement on the grounds of any damage, arising from this.

18. Intellectual property and copyrights

18.1 Without prejudice to the other provisions in these Terms and Conditions, Brandijzers retains the rights and authorizations for the Brandijzers accruing on the basis of the Copyright Act.

18.2 Brandijzers reserves the right to use the knowledge gained through the execution of the Services for other purposes, insofar as no confidential information is disclosed to third parties.

19. Non-takeover staff

19.1 During the term of the Agreement, as well as one year after its termination, the Client will not in any way, except after proper business in this matter has taken place with Brandijzers, employees of Brandijzers or companies to which Brandijzers has invoked for the implementation of this Agreement and who are or have been involved in the execution of the Agreement, take on the service or otherwise, directly or indirectly, let them work for themselves.

19.2 In the event of violation of paragraph 1, the Client will owe Brandijzers a fine of € 40,000 per event and € 2,500.00 per day that the violation continues, without prejudice to the right of Brandijzers to claim full compensation.

20. Final provisions

20.1 Only Dutch law applies to each Agreement.

20.2 The judge in Amsterdam has exclusive jurisdiction to hear disputes. The parties will first appeal to the court after they have endeavored to settle a dispute in mutual consultation.

Additional provisions hosting services

21. Domain names and IP addresses

21.1 Application, allocation and possibly use of a domain name and / or IP address are dependent on and are subject to the applicable rules and procedures of the relevant registration authorities, including the Stichting Internet Domeinregistratie Nederland. The relevant authority decides on the allocation of a domain name. In the application, Brandijzers only plays an intermediary role and does not guarantee that an application will also be honored.

21.2 The Client may only learn from the Branders' invoice, stating that the requested domain name has been registered, of the fact of registration.

21.3 Domain names are registered in the name of the Client and the Client is fully responsible for the use of the domain and the domain name. The Client indemnifies Brandijzers against any claim by third parties in connection with the use of the domain name, even if no mediation has been granted upon the acquisition of the domain name Brandijzers.

22. Data / E-mail traffic

22.1 The maximum accepted data / e-mail traffic differs per purchased package, the most recent specifications of which are stated in the Agreement. When Brandijzers deems it necessary to change these specifications, it can do this without informing the Client about this.

22.2 If extreme use, even if it arises from spam and / or hacks by third parties, is established by Brandijzers, Brandijzers informs Client and allows them to pay a surcharge on this extreme use of the data / email traffic. If the Client does not agree with this, he will be given the opportunity to provide the website in a different manner with a maximum of 12 hours after the announcement. If the Client does not comply with this, Brandijzers is entitled, without further notification, to remove the present website from its web server (s).

22.3 If there is bulk mail or the spreading of spam directly or indirectly related to domain names and / or accounts managed by Brandijzers, Brandijzers can proceed to close the domain without consultation. Any costs arising from this will be recovered from the Client.

22.4 The Client can not claim compensation for damages due to the actions of Brandijzers in connection with this article.

22.5 If the Client exceeds the maximum accepted data / e-mail traffic, Brandijzers may submit a proposal to the Client for a structural increase of the agreed data traffic limit.

23. Maintenance and work

23.1 Brandijzers is entitled to (temporarily) decommission its systems without prior publication and / or to limit the use thereof insofar as this is necessary for the required maintenance of the systems, or due to improvements or innovations to those systems.

23.2 Brandijzers is entitled to make changes to the login procedure of the Services.

23.3 Brandijzers is entitled at all times to make changes to the Service provided, provided that such changes do not adversely affect the functionality or characteristics of the Service. Incidentally, for free Services, Brandijzers is unconditionally entitled at all times to amend or change it.

23.4 Brandijzers is not liable for damage of the Client as a result of the provisions of the previous paragraphs.

24. Liability

24.1 Client is responsible for the use (and possibly misuse) of the assigned user / domain name, passwords and the email address. Brandijzers is entitled to make changes to this insofar as it considers this necessary in the interest of its Services. Brandijzers is not responsible for the security of the data placed by the Client on its systems after delivery.

24.2 Brandijzers is not liable for damage on the part of the Client that is caused by third parties, which may or may not be used making the services of Brandijzers.

24.3 The Client indemnifies Brandijzers against all third-party claims regarding damage that third parties suffer as a result of the use of the Services of Brandijzers and / or the Internet by the Client.

24.4 Brandijzers is not liable for damage to hardware and software that has arisen due to the development of software that aims to damage such as computer viruses. For this purpose, Brandijzers may run antivirus software to limit the damage to its systems and to remove or isolate infected files if deemed necessary.

24.5 The Client must ensure adequate security of its own data and software, for example by regularly backing it up. Brandijzers is in no way liable for loss of data or damage to software during (the execution of) the Services by any cause whatsoever.

24.6 Electronic communication shall be deemed to have been received on the day of dispatch unless the contrary is proven by the client. If the receipt is the result of delivery and / or accessibility problems with regard to the e-mail address of the Client, this will be at the risk of the Client, even if the e-mail address is housed with a third party.

24.7 In the event of misunderstanding, mutilation, delays or inadequate delivery of orders and announcements as a result of the use of the internet or any other electronic means of communication in the traffic between Brandijzers and the Client, Brandijzers is not liable.