



TERMS & CONDITIONS

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kvk 63250764

soofer.agency

RIDE THE BIG WAVE



These general terms and conditions are divided into two modules,

Module A: General

Module B: Digital Design

If Module B applies, this module prevails over Module A general. Insofar as the module A general does not conflict with the applicable provisions of module B, module A general always applies as well. The definitions under article A.1 module A general, apply to both modules.

Questions? Please contact us at
hello@soofer.agency

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MODULE A: GENERAL

ARTICLE A.1. DEFINITIONS

In these general terms and conditions, the following definitions shall apply:

Client: The party issuing the assignment.

Contractor: Soofer Agency, registered in the Dutch Trade Register under number 63250764.

ARTICLE A.2: APPLICABILITY

1. These general terms and conditions - to the exclusion of any general terms and conditions of the client - apply to all assignment contracts (including additional assignments and/or follow-up assignments) concluded with Soofer Agency, unless otherwise agreed in writing prior to the conclusion of the contract.
2. If one or more of the provisions in the General Terms and Conditions are null and void or annulled by judicial intervention, the remaining provisions of the General Terms and Conditions shall remain fully applicable. The Engaged Firm and the Client shall then consult to agree on new provisions to replace the void or voided provisions, whereby, if and to the extent possible, the purpose and purport of the original provisions shall be observed.
3. Soofer Agency is authorized to amend and/or supplement these general terms and conditions without prior notice. Any amended general terms and conditions shall apply to all new agreements and to current agreements.

ARTICLE A.3: QUOTATION, OFFER AND ACCEPTANCE

1. The proposals made by the contractor are without obligation. A proposal made by the contractor shall automatically lapse if not accepted in writing by the client within 2 months, unless expressly agreed otherwise.
2. The agreement shall be concluded at the moment when the client has agreed to the unchanged quotation or offer in writing or digitally, or as much earlier as the parties actually start to carry out the agreement. In the event of amendments to the quotation or offer, the agreement shall not come into effect until the contractor confirms the amendment in writing or digitally.
3. All assignments shall be deemed to have been given exclusively to Soofer Agency and not to a person or legal entity affiliated with the Contractor. This also applies if it is the express or implied intention of the client that the assignment will be performed by a specific person.

ARTICLE A.4: EXECUTION OF THE ASSIGNMENT

1. After signing the quotation, the contractor shall carry out the assignment as soon as possible in accordance with the quotation, taking into account the reasonable wishes of the client. The contractor shall make every effort to perform the assignment to the best of his ability, with due care and skill. It is the client's responsibility to enable timely and correct execution of the assignment. Specifically, the client is obliged to ensure that all data which the contractor considers necessary, or which the client should reasonably understand to be essential for the execution of the assignment, are provided to the contractor in a timely manner. The Client's required commitment must be of sufficient

quality and delivered on time, both in terms of contact support and in the planned deployment of employees.

2. Data such as: contact information, information and if necessary passwords of the channels to be managed, accounts and any other things such as already created content, photos and texts, should be submitted via hello@soofer.agency, www.soofer.agency or via a We-Transfer link. Important is the preservation of quality. The WeTransfer link should be sent to hello@soofer.agency with mention of the relevant contact person and accompanying letter.

3. If the client fails to do what is mentioned in article 4 paragraph 1, the contractor is entitled to charge additional costs and it is possible that the assignment will be delayed. Should there be a delay of the assignment, caused by the client, this will be reported by e-mail or in writing. In that case, the contractor will inform the client of any additional costs to be charged.

ARTICLE A.5: DURATION, TERMINATION AND DISSOLUTION

1. The general term of a contract/agreement is one year, unless otherwise agreed upon. The contract is automatically extended by 6 months under the same conditions without notice.

2. The client may terminate the contract by written notice addressed to the contractor. The written notice of termination must be received by the contractor at least one full month before the end of the agreement.

3. The delivery periods indicated by the contractor are indicative in nature. The contractor shall not be in default until the client has given him written notice of default.

4. If the client fails to fulfill its obligations under the agreement, the contractor shall be entitled to suspend the performance of all agreements concluded with the client in question, without notice of default being required. The client is not thereby entitled to compensation for damages, lost profits and interest.

5. Contractor is authorized to cancel or suspend all or part of the agreement with immediate effect, without legal intervention, in writing and without any obligation to pay damages or compensation, if:

- Client fails to fulfill its obligations under the Agreement in full or on time
- Contractor becomes aware of circumstances after the conclusion of the Agreement that give good reason to fear that Client will not fulfil his obligations
- Client was requested, at the conclusion of the Agreement, to provide security for the fulfilment of his obligations under the Agreement and this security is not provided
- Client dies or files for bankruptcy
- Client's bankruptcy is granted
- The client's activities are discontinued or liquidated
- If an attachment is levied on one of the principal's assets
- If circumstances arise which are of such a nature that fulfillment of the agreement becomes impossible or if the contractor cannot reasonably be required to maintain the agreement unchanged.

6. If the Agreement is dissolved, the claims of the Contractor against the Client shall be immediately due and payable.

7. If the dissolution is attributable to the client, the contractor will be entitled to compensation for the damage caused directly and indirectly as a result.

ARTICLE A.6: PROCEDURE FOLLOWING TERMINATION

1. Upon termination of the agreement, the parties are mutually obligated to promptly return to the possession of the other party any property of which the other is the owner or rightful owner. Certain property, such as data (media), may be erased or destroyed instead of being returned if the other party has given its written consent.

ARTICLE A.7: PRICES

1. All prices of the contractor are exclusive of VAT and other levies imposed by the government.
2. The costs of plugins used or costs to third parties by the contractor, will be charged to the client.
3. If the price in an offer is based on the data provided by the client and these subsequently turn out to be incorrect, the contractor has the right to adjust these prices to the prices reasonably corresponding to the correct data, even after the agreement has been concluded.
4. All prices stated in the contractor's quotation are subject to typing and calculation errors.

ARTICLE A.8: PAYMENTS

1. The work and services of Soofer Agency are in principle invoiced monthly in advance, unless otherwise stipulated in the quotation or offer. After payment of the first invoice, the cooperation is started and the client is introduced to the cooperation.
2. Soofer Agency uses direct debit upon consent of the client. This direct debit applies to the recurring monthly invoice for the service for which the cooperation contract is signed.
3. The payment period for invoices is 14 days from the invoice date. Payment shall be made in the manner specified on the invoice.
4. When purchasing additional services or services, Soofer Agency will invoice these separately when desired. It is up to the client to determine whether these can be collected automatically or not. A quote will always be sent in advance for the additional purchases. In case of hiring external parties, Soofer Agency will take care of these party(ies) and will quote and invoice the client from Soofer Agency.
5. In the event of non-payment or incomplete payment, the client will be in default by operation of law after the expiry of the period referred to in the first paragraph and the contractor will be entitled, without further demand or notice of default, to charge the client statutory interest from the due date until the date of payment in full, all this without prejudice to the contractor's further rights.
6. All judicial and extrajudicial costs reasonably incurred by the contractor as a result of non-performance by the client will be borne by the client.

ARTICLE A.9: ADDITIONAL WORK

1. If the client's wishes, which can reasonably be considered by the contractor as a change or an addition to the stated quotation, increase the amount of work of the contractor, this shall be considered as additional work.

2. If there is additional work, as stated in article 9 paragraph 1, this will first be issued again in a quotation to the client and the client will be requested to confirm the agreement for the additional work in writing.

ARTICLE A.10: OBLIGATIONS OF THE PRINCIPAL

1. The client is responsible for the accuracy and completeness of the information provided by him to Soofer Agency. Of this, no liability is accepted by the contractor.
2. The client must have approved all created designs and other documents such as texts and photos or content by Soofer Agency within 7 days after submission to the client. As long as design or content is not approved by the client, Soofer Agency will not publish the content.
3. Client shall be adequate in communication, which means that the client shall respond substantively to communications from the contractor within 3 working days at the latest, unless otherwise agreed in writing.
4. Client shall appoint up to 2 contact persons with whom the contractor communicates. If a contact person is temporarily unavailable, this and any replacement must be communicated to the contractor in a timely manner.

ARTICLE A.11: INTELLECTUAL PROPERTY RIGHTS

1. All rights of intellectual property under the Agreement shall lie exclusively with the Contractor or its licensors. Intellectual property rights mean: All (future) rights of intellectual property, including but not limited to; trademark rights, patent rights, design rights, copyright and neighboring rights, trade name rights, database rights, know-how, trade secrets and domain names.
2. Client only acquires the usage rights and powers as long as the agreement between client and contractor lasts.
3. The client may not remove or modify any indication relating to copyrights, trademarks, trade names or other intellectual property rights from the materials. This includes indications regarding the confidentiality and secrecy of these materials.
4. If the materials provided by the client to the contractor are protected by any right of intellectual property, the client warrants at all times that he has all the necessary licenses for the use of visual materials. The contractor can never be held liable if the right of intellectual property has not been (correctly) arranged by the client. When the Client supplies the visual material, the Supplier may assume that the Client has the necessary licenses.
5. In the event of broader or other use, including modification, mutilation or impairment of the provisional or final result, which has not been agreed, Soofer Agency is entitled to compensation due to infringement of its rights of at least three times the agreed fee, or at least a fee that is in proportion to the infringement committed, without losing any other rights. In the case of a result on which longer work has been done, such as web software, three times the monthly fee for the number of months worked on the provisional or final result must be paid.
6. Without prior permission from the contractor, the client will not (any longer) be permitted to use the result of the assignment or to develop it further (or have it

developed further), and any right of use (license) granted to the client in the context of the assignment will lapse, unless the consequences are contrary to the principles of reasonableness and fairness:

- a. from the moment that the client fails to fulfill his (payment) obligations under the agreement or fails to do so in full or is otherwise in default;
- b. if the assignment is terminated prematurely for reasons mentioned in Article 5.4 of these General Terms and Conditions;
- c. in the event of the bankruptcy of the Client, unless the relevant rights have been transferred to the Client in accordance with Article 4.2 of these General Terms and Conditions.

7. The Contractor shall be entitled to use the Client's logotype, logo or name in its external communications without the Client's prior consent.

ARTICLE A.12: RESERVATION OF TITLE

1. The contractor shall remain the owner of the product until the client has fulfilled all of his payment obligations to the contractor under whatever agreement entered into with the contractor, including claims for failure to perform.
2. Until such time, the contractor may invoke its retention of title and repossess the goods.
3. Before ownership has passed to the customer, the customer may not pledge, sell, dispose of or otherwise encumber the products.
4. If the contractor invokes its retention of title, the agreement shall be deemed to be dissolved and the contractor shall be entitled to claim damages, lost profits and interest.

ARTICLE A.13: CRISIS MANAGEMENT

1. "Crisis" means any unexpected and damaging event or situation that may affect the Client's online presence, reputation, or safety on social media platforms, website, and other online environments.
2. In the event of a suspected or actual Crisis, the Client shall immediately notify Soofer Agency and provide all relevant information and evidence to understand the situation.
5. The cost of Crisis Management, including any advertising expenses and external services, will be borne by the client, unless otherwise agreed in the contract. Of these, Soofer Agency's fee rate is valid at the time of the crisis.

ARTICLE A.14: LIABILITY

1. The liability of the contractor is limited to what is shown in this article.
2. The contractor shall only be liable for damage resulting from a shortcoming in the execution of the assignment insofar as this shortcoming is the result of a lack of care that could reasonably be expected of him or intent or gross negligence.
3. The contractor's liability is always limited to a maximum of the amount that will be paid out under the contractor's professional liability insurance.
4. If for any reason no payment is made under the insurance mentioned in the preceding paragraph, the liability shall be limited to an amount charged by the contractor in the preceding three months.

5. Soofer Agency accepts no liability for any failure of third parties it engages. Insofar as third parties limit their liability for professional errors, Soofer Agency is entitled to accept such limitation of liability on behalf of the client.

6. In the event of force majeure, the Contractor shall never be liable.

7. The contractor's liability is limited to direct damages and does not extend to indirect damages including consequential damages, lost income and profits, property damage, missed savings, incurred losses and damages due to business interruption.

ARTICLE A.15: EXPIRY DATE

1. All possible claims by the Client against Soofer Agency shall lapse within one year, after the facts on which the claim is based were known or could reasonably have been known to the Client, but in any event three years from the date of the last invoice for the assignment in question.

ARTICLE A.16: CONFIDENTIALITY

1. Partijen zijn verplicht tot geheimhouding tegenover derden ten aanzien van informatie die vertrouwelijk van aard is.

2. Opdrachtgever zal de inhoud van adviezen en correspondentie niet openbaar maken tenzij opdrachtnemer hiervoor uitdrukkelijk toestemming heeft verleend.

3. Verplichtingen uit dit article blijven onverkort van toepassing na beëindiging van de overeenkomst.

ARTICLE A.17: COMPLAINTS

1. Complaints relating to Soofer Agency's work or invoices must be made by the client to Soofer Agency in writing, giving reasons, within one month of the date of dispatch of the documents or information about which the client is complaining, on penalty of the forfeiture of all rights which the client could have asserted in this regard, both in and out of court.

2. A complaint does not suspend the client's obligation to pay.

ARTICLE A.18: PRIVACY POLICY

1. The receiving party shall use the sensitive information provided only for specific purposes to properly fulfill the work as described in the agreement between two parties. This information may not be used or shared for other purposes without the consent of the providing party.

2. Both parties ensure data protection and about sensitive information such as passwords, licensed data and personal data of the security of sensitive information and compliance with applicable data protection laws, the General Data Protection Regulation (GDPR) in the European Union applicable.

3. Confidential information relating to company, individuals and/or data shall not be shared with third parties. An encrypted program and possibly, to the extent possible, 2FA shall be used to securely store sensitive and/or confidential information.

4. Both parties assume such confidentiality. The party providing the information shall not be liable for any misuse of the information by the receiving party.

5. All mail and telephone (including Whatsapp) contact is intended only for the party with whom the cooperation has been established. It is not allowed to disclose mail and telephone contact to third parties.

6. If Soofer Agency is to process personal data of (clients of) the Client as part of the services to be provided, then Soofer Agency will be regarded as a "processor" and the Client as the "controller" within the meaning of the General Data Protection Regulation (AVG) and, if required, a processor agreement will be concluded in addition. When laying down the technical specifications referred to in Module A of these general terms and conditions, it shall in that case be specifically stated what appropriate technical and organizational measures are taken to secure the personal data against loss or unlawful processing.

ARTICLE A.19: APPLICABLE LAW AND COMPETENT COURT

1. The legal relations between the client and Soofer Agency are governed by Dutch law.
2. Disputes will be decided exclusively by the court in the district where Soofer Agency is based. Nevertheless, Soofer Agency is entitled to submit disputes to the competent court of the client's place of residence.

MODULE B: DIGITAAL ONTWERP

ARTICLE B.1: SPECIFICATIONS

1. A description of the assignment, including (functional and technical) specifications, will be attached to the agreement or the quotation as far as possible. In order to avoid misunderstandings, Soofer Agency is free to make or require a further elaboration of the assignment description or specifications.

ARTICLE B.2: THE RESULT

1. The client and Soofer Agency shall jointly determine the conditions with which the result of the assignment (hereinafter referred to as "the Result"), in addition to the specifications mentioned in Article 1, must in any case comply. Unless otherwise agreed, the Result consists of the visual design ("Visual Design"), the interactive media applications, such as (mobile) applications/apps and websites ("Software") and the source code with which the Software/Visual Design is written/created ("Source Code"). Insofar as the proper use of the Result requires, the parties also agree to what extent Soofer Agency will be involved in the maintenance of Result.

ARTICLE B.3: CORRECT DELIVERY OF MATERIALS

1. The Client shall ensure that Software, materials, data and/or other information, which are necessary or desirable for the correct execution of the assignment, are made available to Soofer Agency in a timely, correct and complete manner and are suitable for use by Soofer Agency within the scope of the assignment.

ARTICLE B.4: STATE OF THE ART

1. Soofer Agency will perform the assignment to the best of its ability taking into account the then current state of the art. Soofer Agency cannot guarantee that the Result will work without interruption or errors in every environment. The Result and its display may depend on external factors, such as hardware, systems, browsers, screen resolutions or operating systems. If necessary, Soofer Agency can, prior to the execution of the assignment, have the specifications include the environment in which the Result will be

used, so that the Result can be tailored to it as much as possible.

ARTICLE B.5: DEFECTS AND ACCEPTANCE

1. If, in the opinion of the Client, the Result does not comply with the technical and/or functional specifications drawn up in this regard, the Client shall notify Soofer Agency in writing immediately, but at least within 7 days of delivery, and for defects that are not due to non-compliance with the aforementioned technical and/or functional specifications, at least within 30 days of delivery, failing which it shall be deemed to have unconditionally accepted the Result "as is". The latter term of 30 days shall not apply, if the Client can prove conclusively that, even if the said term has expired, it could not have detected this defect earlier. Even in this case, the Client is obliged to report the defect to Soofer Agency as soon as possible.

Creative, content, artistic or linguistic choices made by Soofer Agency can never count as a "defect" within the meaning of this article or the contract, unless they are explicitly part of said technical and/or functional specifications.

ARTICLE B.6: SPECIAL GUARANTEE PROVISION

1. Soofer Agency will fix any defects in the Software or in the Result, as referred to and reported in the previous article, insofar as these defects are due to Soofer Agency's failure to meet the drawn-up specifications.

If an acceptance test has been agreed then, contrary to the foregoing, Soofer Agency will correct such defects in the Software that are reported in writing by the Client within 7 days of the end of the test period, insofar as these defects are related to changes/improvements made during the test period.

ARTICLE B.7: EXPIRY OF SPECIAL GUARANTEE

Soofer Agency does not have to repair defects in the Result if these are caused by the Client itself, by third parties or by (changed) circumstances, of which Soofer Agency did not know or should have known at the time of the conclusion of the contract. The warranty obligation also lapses if the Client makes changes to the Software or other parts of the Result or has them made without Soofer Agency's permission, or if the Client attempts to repair a defect or have a defect repaired itself in any way without Soofer Agency's written permission.

ARTICLE B.8: USE OF RESULT

1. The Client has the right to use the Result in the manner agreed upon and when he has fulfilled his obligations under the contract. The use of the Result must in all cases be correct and judicious. In case of doubt or ambiguity as to whether a particular manner of use is permitted, the Client shall consult with Soofer Agency prior to use.

ARTICLE B.9: LICENSE TO USE THE RESULT

When the Client fully complies with its obligations under the agreement with Soofer Agency, it acquires a license to use the Result. With respect to the Visual Design that is part of the Result, the license is exclusive and non-transferable. With respect to the Software and Source Code developed by Soofer Agency, as well as the accompanying (technical) documentation, license is non-exclusive and non-transferable, regardless of whether or not these were produced as part of the assignment. The copyrights to the Result remain with Soofer Agency, unless the parties agree on a transfer of rights.

ARTICLE B.10: THIRD PARTY MATERIAL

1. Notwithstanding Article 11 paragraph 4 of Module A General, the Contractor shall, as far as possible, give advance notice of the material for which permission to use is to be

obtained. For material that Soofer Agency proposes to use in the Result, Soofer Agency may, at the Client's request, request a cost estimate from the relevant supplier.

2. Third party copyrighted material in this context includes software, brand elements, fonts, photographs, (music) compositions and (audio)visual works.

3. If necessary, Soofer Agency may require proof that the authorization from the preceding paragraphs is properly and completely arranged. Under no circumstances shall Soofer Agency be liable if the licenses referred to herein are missing, incorrect or incomplete.

ARTICLE B.11: CHANGES

1. The Client is permitted, in the case of an assignment to develop a (mobile) application or website, or a design equivalent to such an application in this respect, to make changes to the content of the databases, underlying pages and tree structures for daily use within the limits specified by Soofer Agency.

2. However, the Client shall not be permitted to make changes to:

- a. the Visual Design;
- b. the opening page;
- c. the basic structure;
- d. the Software;
- e. the navigation system.

3. Soofer Agency cannot withhold the consent referred to in the previous paragraph if it is contrary to reasonableness. In the event of a change desired by the Client, the Client will give Soofer Agency the first opportunity to carry it out. A fee will be paid for this, based on the fee rates applied by Soofer Agency at that time.

ARTICLE B.12: SOURCE CODE AND SOFTWARE PROTECTION

1. The Source Code of the Software and the technical documentation created in the development of the Result shall not be transferred by Soofer Agency to the Client. If the Client so requires or if the nature of the assignment so requires, Soofer Agency may be required to place the Source Code in the custody of a third party ("escrow"). The escrow costs shall be borne by the Client, unless the parties have agreed otherwise or the escrow arrangement already existed.

2. Insofar as the Client can access the Source Code, he does not have the right to use it in any way (other than for which it may have been given in escrow), or to disassemble, decode, decompile, reverse engineer, apply reverse engineering, modify and/or provide information about it to others without the prior written consent of the rightful owner of the Source Code.

3. Soofer Agency is entitled to protect his/her software by means of (technical) measures. In that case, the Client is not permitted to remove or evade this protection.

ARTICLE B.13: ENFORCEABILITY OF RIGHTS

1. Soofer Agency hereby authorizes the Client, in the event of infringement of its rights to the Result, to enforce the rights at its own expense on behalf of Soofer Agency and on its own behalf, both in and out of court, and to claim damages and payment of profits. In all measures to this end, the parties shall provide each other with all necessary information.

2. In the event of legal action as referred to in the preceding paragraph, the Client shall be entitled to 60% and Soofer Agency to 40% of the proceeds from each claim for damages

awarded or honored to the Client after deduction of any out-of-court and judicial costs and costs of legal assistance, insofar as the infringer has not been ordered to pay such costs.

3. If the Client declines to take such legal action, Soofer Agency shall be free to take its own legal action against the infringing party or parties. The compensation (damages) to be paid by a third party pursuant to such legal measures shall accrue in full to Soofer Agency, with reimbursement to the Client of the reasonable costs incurred by it in assisting Soofer Agency.

ARTICLE B.14: CREDIT REFERENCE

1. In publicity surrounding the Result, the Client will ensure that Soofer Agency's contribution is clearly highlighted. If it has been agreed that third parties will be involved in an amendment or elaboration of the Result, the Client will also oblige these third parties to clearly mention Soofer Agency's contribution to publicity concerning (an elaboration of) the Result.

2. Soofer Agency may include his/her name in the Result in a modest way. The manner in which this naming takes place will be determined by mutual agreement.

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