

# THE BRANDSCAPE AGENCY

## Terms and conditions

Version 2023.01

### ARTICLE 1 | Company particulars

1. The Brandscape Agency is a trade name of Elles & Hellen - Decor & Architectuur B.V. based in Leiderdorp at Weversbaan 19 (the Netherlands). This private limited company is registered with the Chamber of Commerce under number: 77722329.

### ARTICLE 2 | Applicability

1. These general terms and conditions apply to all existing and future agreements, assignments and additional or follow-up assignments between The Brandscape Agency and the other party.
2. All persons engaged or involved by The Brandscape Agency in the execution of any assignment of the other party (including self-employed persons and employees of The Brandscape Agency) may invoke the provisions of these general terms and conditions.
3. The applicability of general terms and conditions, under any title whatsoever, of the other party is expressly excluded. General terms and conditions of the other party are only applicable if expressly confirmed by The Brandscape Agency in writing before the conclusion of the agreement. In case of any conflicting provisions, the general terms conditions of The Brandscape Agency shall in such case prevail.
4. If one or more provisions in these general terms and conditions are null and void or should be annulled, the other provisions of these general terms and conditions shall remain fully applicable. The Brandscape Agency and the other party shall in that case consult to agree on new provisions to replace the void or nullified provisions, whereby the purpose and purport of the original provision shall be observed to the extent possible.

### ARTICLE 3 | Offers and quotations

1. All offers and quotations are without obligation and may be revoked. Agreements shall be concluded only upon The Brandscape Agency's confirmation of acceptance of the assignment to the other party in writing, or when The Brandscape Agency effectively executes a provided assignment.
2. If acceptance deviates (on minor points) from the offer included in the quotation, The Brandscape Agency shall not be bound by it. The agreement will in that case not be concluded in accordance with such deviating acceptance, unless The Brandscape Agency states otherwise.
3. Delivery times in offers by The Brandscape Agency are indicative, unless otherwise agreed. In the event the indicative period is exceeded, this shall not constitute an attributable failure on the part of The Brandscape Agency and does not entitle the other party to dissolve the agreement or to any damages.
4. If a model, example, design, sketch, estimate has been shown to the other party, it is presumed to have been shown only as an indication, while the services provided need not correspond to it, unless it has been expressly agreed that the final product to be delivered will correspond to it.
5. A compound quotation does not oblige The Brandscape Agency to deliver part of the goods and/or services included in the offer or quotation at a corresponding part of the quoted price.
6. Offers or quotations do not automatically apply to the delivery of similar services at a later time.

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## ARTICLE 4 | Execution of the agreement

1. The Brandscape Agency shall execute the agreement to the best of its knowledge and ability and in accordance with the requirements of professional workmanship.
2. Except where supervision is part of the agreement with The Brandscape Agency, the other party shall ensure that a supervisor is available at the location during the execution of the assignment. This supervisor must be authorised to give instructions on behalf of the other party and/or answer questions from The Brandscape Agency or from those performing work on behalf of the other party regarding the implementation of the work. In the absence of a supervisor of the other party, the risk of any errors made by The Brandscape Agency and said third parties is entirely the other party's responsibility. The costs of rectification of such errors shall in that case be borne by the other party.
3. All services by The Brandscape Agency are performed on the basis of a best-effort obligation, unless and insofar as The Brandscape Agency has expressly promised a result in the written agreement and the result in question is sufficiently defined.
4. The other party shall ensure that all data required by The Brandscape Agency or which the other party should reasonably understand are necessary for the execution of the agreement, are provided to The Brandscape Agency in time. If the data required for the performance of the agreement have not been provided to The Brandscape Agency in time, The Brandscape Agency has the right to suspend the performance of the agreement and/or charge the other party for the additional costs resulting from the delay.
5. If the other party provides information carriers, electronic files or software etc. to The Brandscape Agency, the other party guarantees that the information carriers, electronic files or software are free of viruses and defects.
6. The other party is obliged to use (or cause to use) the materials provided by The Brandscape Agency under the execution of the agreement with all due care and - where applicable - in accordance with the instructions given by The Brandscape Agency for that purpose. The other party is liable in respect of The Brandscape Agency for any damage resulting from negligent use of the provided materials, including damage to the materials themselves, as well as damage resulting from theft or loss of those materials.
7. The period in which the work is implemented, including the provision of advice, etc., is determined by The Brandscape Agency on an approximate basis. An agreed deadline is only binding upon The Brandscape Agency if it is expressly and explicitly stated in writing by The Brandscape Agency.
8. The Brandscape Agency is not bound by (delivery) deadlines which, due to circumstances beyond the control of The Brandscape Agency which have occurred after the agreement was concluded, can no longer be met. Interruptions caused by third parties are for the account of the other party. If exceeding any deadline is imminent, The Brandscape Agency will consult with the other party as soon as possible.
9. If the interruption is caused by third parties, The Brandscape Agency reserves the right to suspend the deadline agreed with the other party until the interruption is ended, and to extend the deadline by the time of the duration of the delay.
10. If it has been agreed that the agreement will be executed in phases, The Brandscape Agency may suspend the execution of sections that are part of a subsequent phase until the other party has approved in writing the results of the preceding phase.
11. If work is performed by The Brandscape Agency or third parties engaged by The Brandscape Agency under the assignment at the other party's location or a location designated by the other party, the other party shall provide the facilities reasonably required by those employees free of charge.

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## ARTICLE 5 | Engagement of third parties and mediation

1. As and if required for the proper execution of the agreement, The Brandscape Agency has the right to have certain activities carried out by third parties.
2. The Brandscape Agency is not liable for any shortcomings of engaged third parties, except for intent or gross negligence on the part of The Brandscape Agency.
3. If any engaged third parties wish to limit their liability with respect to the performance of an assignment on behalf of the other party, The Brandscape Agency assumes and hereby stipulates that each assignment includes the power to accept any limitations of liability of third parties also on behalf of the other party.
4. If The Brandscape Agency mediates on behalf of the other party in the conclusion of agreements between the other party and third parties, or enters into agreements with third parties on behalf of the other party, only those third parties and the other party shall be bound by the agreements. The Brandscape Agency itself is not a party to those agreements and in no way accepts any liability in respect of the other party for the proper and timely performance of those agreements by the third parties.

## ARTICLE 6 | Modification of the agreement

2. Any amendments to the agreement require the written consent (including consent via e-mail) of The Brandscape Agency.
3. If, during the execution of the agreement, it appears necessary for a proper execution to change and/or supplement the work to be done, the parties will timely adjust the agreement accordingly and in mutual consultation.
4. If the parties agree that the agreement will be amended and/or supplemented, The Brandscape Agency has the right to change the time or manner of execution and adjust the price accordingly.
5. If the other party wishes to amend a concluded agreement, The Brandscape Agency may require the other party to compensate The Brandscape Agency for any loss resulting from the amendment.

## ARTICLE 7 | Claims

1. Complaints concerning visible defects in goods delivered or work performed must be reported in writing to The Brandscape Agency management immediately upon delivery/completion of the work in question, however, no later than eight days after delivery/completion. For non-visible defects, a period of eight days after discovery of the defect applies. In the absence of a timely complaint, The Brandscape Agency is deemed to have delivered in accordance with its obligations or to have carried out the work in accordance with the agreement. Any right to file a complaint expires three months after the moment of delivery/completion of the work. Complaints do not suspend the payment obligation.
2. If the other party believes to have observed any defects, the other party must give The Brandscape Agency at all times the opportunity to determine and/or investigate (or cause to investigate) the alleged defects on site, and furthermore - if this is still possible - to give The Brandscape Agency the opportunity to rectify any defects. If the other party fails to fulfil this obligation, The Brandscape Agency shall be deemed to have delivered in accordance with The Brandscape Agency's obligations or to have performed the work in accordance with the agreement and any right to complain shall lapse.

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## ARTICLE 8 | Term of the agreement and termination

1. If the agreement is entered into for a specific assignment, the agreement ends at the end of the assignment and cannot be terminated prematurely, unless the parties have agreed otherwise.
2. If the other party cancels, revokes or terminates the agreement for any reason whatsoever before it has been completed, The Brandscape Agency shall be entitled to charge the full contract price, contrary to Book 7, Section 411 of the Dutch Civil Code.
3. If, for any reason, paragraph 2 is not applied or if the parties have agreed to an interim termination clause, the other party shall at all times owe The Brandscape Agency at minimum the expenses already incurred and no longer avoidable with respect to the execution and cancellation of the agreement, as well as any further costs that The Brandscape Agency needs to incur as a result of the cancellation, including the reimbursement of all work already executed and yet to be executed by The Brandscape Agency with respect to the cancellation at the rate stated in the agreement.
4. The Brandscape Agency may, subject to a notice period of at least one (1) month, terminate any agreement at any time if specific products or services are no longer provided or technical or (business) economic reasons give rise to termination without being liable for payment of compensation.

## ARTICLE 9 | Prices

1. The prices charged by The Brandscape Agency are exclusive of VAT and any other taxes, as well as any costs to be incurred under the agreement, including administration costs, unless otherwise stated.
2. Additional work will be charged afterwards at the agreed hourly rate. If no rate has been agreed, the following rates will apply:

- Design/engineering € 125 ex VAT per hour
- Project management € 90 ex VAT per hour
- Production € 77 ex VAT per hour

3. The agreed prices are based on the cost factors applicable at the time of the agreement. The Brandscape Agency reserves the right to charge the other party for price increases proportional to price increases by suppliers of The Brandscape Agency and in case of other changes in price determining factors, such as exchange rates and fluctuating raw material prices.

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## ARTICLE 10 | Payment

1. Unless the type of services or agreements dictates otherwise, invoicing will be submitted at the end of each (partial) assignment and/or rental period. The Brandscape Agency is entitled to request an advance payment.
2. Payment must be made within the period stated on the invoices or in the agreement, in a manner stated by The Brandscape Agency and in the currency invoiced. If no payment date or term is stated, a 30-day term after the date of the invoice shall apply. The other party is not entitled to offsetting or suspension of payments.
3. The Brandscape Agency shall be entitled to have the payments made by the other party first of all serve to reduce the costs, then to reduce the interest that has fallen due and finally to reduce the current interest and the principal sum, even if otherwise stated at the time of payment.
4. In case of (intended) liquidation, (an application or filing for) bankruptcy, (an application for) suspension of payments, (an application for) placement of the other party in a legal-debt rescheduling or in case a substantial part of the assets of the other party are seized without this seizure being lifted within a reasonable period of time, the claims of The Brandscape Agency against the other party shall be immediately due and payable.

## ARTICLE 11 | Collection costs

1. If the other party is in default or breach of one or more of its obligations, all reasonable costs for obtaining out-of-court settlement shall be borne by the other party. If the other party continues to be in default of timely payment of a sum of money, it forfeits an immediately payable fine of 15% on the amount still due including VAT with a minimum of € 250 per invoice, plus VAT.
2. If The Brandscape Agency has incurred higher costs, which were reasonably necessary, these shall be subject to compensation as well.
3. The other party shall owe the statutory commercial interest on the collection costs incurred.

## ARTICLE 12 | Suspension and termination

1. The Brandscape Agency is entitled to suspend the fulfilment of its obligations or dissolve the agreement in the event that:
  1. the other party fails to fulfil or fails to fully fulfil its obligations under the agreement;
  1. after the conclusion of the agreement The Brandscape Agency becomes aware of circumstances that give good reason to fear that the other party will not fulfil its obligations;
  1. upon conclusion of the agreement, the other party was requested to provide security for the fulfilment of its obligations under the agreement and this security is not provided or is insufficient;
  1. the other party applies for suspension of payment or application of the WSNP (Netherlands Debt Restructuring (Natural Persons) Act) or is declared bankrupt.
2. Further to this, The Brandscape Agency is entitled to dissolve the agreement if circumstances arise to the extent that fulfilment of the agreement becomes impossible or can no longer be required according to standards of reasonableness and fairness, or if other circumstances arise to the extent that the unaltered maintenance of the agreement can no longer be reasonably expected.

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3. In the event that the agreement is dissolved, the claims of The Brandscape Agency against the other party shall be immediately due and payable. If The Brandscape Agency suspends the fulfilment of its obligations, it shall retain its claims under the law and the agreement.
4. The Brandscape Agency at all times retains the right to claim damages.

## ARTICLE 13 | Liability

1. The Brandscape Agency is covered by a corporate liability insurance in case it or any of its employees cause a loss to persons and/or property of the other party during the performance of the agreed services. A copy of this policy will be sent to the other party upon request.
2. The joint liability of The Brandscape Agency or of the partners, its directors, as well as of their employees and any person engaged in the performance of any assignment of the other party, shall be limited to the amount paid in the case in question under The Brandscape Agency's business liability insurance.
3. The other party shall indemnify The Brandscape Agency against third-party claims for damages that are not covered by the (corporate liability) insurance(s).
4. If and insofar as no payment is made under the aforementioned insurance(s) for any reason whatsoever, the joint liability in its entirety shall be limited to an amount of €5,000 (in words: five thousand euros) and shall not in any case exceed the amount of the payment which the other party is obliged to pay for the assignment in question.
5. The Brandscape Agency shall not in any case be liable for indirect loss, including consequential loss, loss of profit, missed savings, loss due to interruption in business operations, mutilation or loss of data, and all other forms of indirect loss.
6. The Brandscape Agency is not liable for loss, of any nature whatsoever, due to the fact that The Brandscape Agency relied on inaccurate and/or incomplete information provided by the other party, unless The Brandscape Agency should have been aware of such inaccuracy or incompleteness. The Brandscape Agency is not liable for functional unsuitability of materials and constructions, both existing and those prescribed by the other party, on which or at which the work to be performed by The Brandscape Agency must take place.
7. The Brandscape Agency is not liable for loss, recovery of mutilated or lost data or reduced performance due to the deliberate disruption of services by third parties. This includes distributed denial of service attacks (DDoS) and hacker attacks as well as viruses, malicious software, spyware, encryption software and so on.
8. All claims for damages shall lapse if they are not brought before the competent court within one year after the other party was aware, or could reasonably have been aware of those claims.
9. The performance of the assignment given shall be exclusively for the benefit of the other party. Third parties cannot derive any rights from the content of the work carried out. The other party indemnifies The Brandscape Agency against all claims by third parties, including the reasonable costs of legal assistance, which are in any way related to or result from the work carried out for the other party.

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## ARTICLE 14 | Indemnities

1. The other party indemnifies The Brandscape Agency against claims from third parties related to infringement of patents and/or copyrights, through the use of drawings, data, materials or parts, or through the application of working methods, which have been provided to or required for The Brandscape Agency by or on behalf of the other party for the execution of the assignment, or which are caused by unsafe situations in its organisation.
2. The other party indemnifies The Brandscape Agency for any claims by third parties, who suffer a loss with respect to the execution of the agreement and which is attributable to the other party.
3. Any right of the other party to hold The Brandscape Agency harmless on account of claims made against the other party is excluded.

## ARTICLE 15 | Force majeure

1. The parties are not obliged to fulfil any obligation in the event that the party in question is prevented from fulfilment due to a circumstance for which it cannot be held responsible, and which is not for its account by virtue of the law, a legal act or generally accepted practice.
2. In these general terms and conditions, force majeure means, apart from in the relevant provisions in law and jurisprudence, all external causes, foreseen or unforeseen, which are beyond The Brandscape Agency's control, and which prevent The Brandscape Agency from fulfilling its obligations. This includes in any case the non, untimely or improper receipt of the items necessary for the fulfilment of the obligations from suppliers of The Brandscape Agency, accident or illness of persons (employed by The Brandscape Agency or others) used by The Brandscape Agency, ice strike or any other business hindering (collective) action, government measures, delay in supply, export prohibition, riot, war, pandemic in the broadest sense of the word, mobilisation, transport impediment, breakdown of machinery, disruption in the supply of energy, import impediment and fire.
3. The Brandscape Agency is moreover entitled to invoke force majeure if the circumstance preventing (further) fulfilment occurs after The Brandscape Agency should have fulfilled its commitment.
4. The parties may suspend the obligations under the agreement during the period of force majeure.
5. If force majeure delays or prevents the performance of an agreement, The Brandscape Agency is entitled to dissolve the agreement, without any obligation to compensate the other party for damages.
6. Where The Brandscape Agency has already partially fulfilled its obligations from the agreement at the time of the force-majeure situation, or will be able to fulfil them, and insofar as independent value can be attributed to the fulfilled or still to be fulfilled part respectively, The Brandscape Agency is entitled to invoice the fulfilled or still to be fulfilled part separately. The other party is obliged to pay this invoice as if it were a separate agreement.

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## ARTICLE 16 | Retention of title

1. The title to all items delivered by The Brandscape Agency, including any designs, sketches, drawings, films, software, (electronic) files, etc., shall remain vested with The Brandscape Agency until the other party has completely fulfilled its obligations in respect of The Brandscape Agency under any legal basis whatsoever.
2. The other party is not entitled to pledge or in any other way encumber the goods under the retention of title. The other party is obliged to keep the items delivered by The Brandscape Agency separately.
3. If third parties seize the goods delivered under retention of title or wish to establish or assert rights to them, the other party is obliged to notify The Brandscape Agency as soon as can reasonably be expected.
4. If the other party fails to fulfil its payment obligations, it shall cooperate to the return of delivered goods to The Brandscape Agency at first request to that effect, on all days and hours. The other party irrevocably grants The Brandscape Agency and any third parties engaged by it the right and permission to enter the locations where the goods are located and to take back the goods.

## ARTICLE 17 | Intellectual property and copyright

1. Without prejudice to the other provisions of these general conditions, The Brandscape Agency reserves the rights and powers to which The Brandscape Agency is entitled under the Copyright Act.
2. The other party is not allowed to make any changes to the goods, unless it follows from the structure of the delivered goods or has been agreed otherwise in writing.
3. The title to any designs, sketches, drawings, films, software and other materials or (electronic) files created by The Brandscape Agency under the agreement shall remain vested with the property of The Brandscape Agency, regardless of whether they have been provided to the other party or to third parties, unless expressly agreed otherwise. The other party has no right to surrender the designs, sketches, drawings, etc. created under the assignment, even after the execution of the assignment and upon completion of the agreement.
4. All documents provided by The Brandscape Agency, such as designs, sketches, drawings, films, software, (electronic) files, etc., if any, are intended to be used by the other party only for the purpose and specific assignment for which they were provided and produced. They may not be reused, reproduced, made public or brought to the notice of third parties without the prior permission of The Brandscape Agency, unless otherwise agreed.
5. The Brandscape Agency reserves the right to use any knowledge gained from the execution of the work for other purposes, as long as no confidential information is brought to the knowledge of third parties.

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## ARTICLE 18 | Confidentiality

1. The other party is obliged to observe strict confidentiality with regard to all information it learns from or regarding The Brandscape Agency, products or services of The Brandscape Agency, clients and relations of The Brandscape Agency, the confidential nature of which it is aware of or should have suspected, and to provide it to its staff members and advisors only with the permission of The Brandscape Agency, whereby confidentiality must also be imposed on these persons.
2. If the other party acts in violation of paragraph 1 of this article, whereby an act of the aforementioned staff members and advisors is attributed to the other party, the other party forfeits an immediately payable fine of €10,000 (in words: ten thousand euros) owed to The Brandscape Agency without further notice of default, without prejudice to The Brandscape Agency's right to claim damages insofar as the damage exceeds the aforementioned fine.

## ARTICLE 19 | Amendment and interpretation

1. With respect to the interpretation of the contents and scope of these general terms and conditions, the (Dutch) text shall at all times be decisive.
2. The Brandscape Agency has the right to amend these general terms and conditions by sending the amended text to the other party. Amendments or additions also apply with respect to agreements already concluded, provided they are presented to the other party. The other party is deemed to have accepted the amendments in question if no written objection is received within fourteen days of The Brandscape Agency's notification of the impending amendment.

## ARTICLE 20 | Disputes and applicable law

1. All agreements with The Brandscape Agency are exclusively governed by Dutch law.
2. Subject to any mandatory law provisions to the contrary, all disputes in first instance will be submitted exclusively to the Court of The Hague.

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