

The 11 Most Important Items to Include When Drafting Your Agency Contract

by [Cody Slingerland](#) in [Marketing Agency Tips](#)



Are your agency contracts bulletproof? Are you using contracts at all?

If your agency uses contracts that don't cover everything they need to, or worse, you're not

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away. Each section is crucial for covering your business in case a poorly written contract can leave you exposed to anything from

Welcome to Instapage!

Let's dive into why you should be using [long-term contracts](#) and the details of a great client contract.

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for your agency. If your contract has loopholes and isn't explicit with the services provided, a client can legally demand work outside of your scope.

Of course, this can then lead to a loss in revenue for your agency. The more time you spend working on a project, the [smaller your ROI will be](#).

The worst-case scenario is if you've entered into a bad contract and end up in a lawsuit with clients. They can drag on for months and years, and nobody wants that kind of dark cloud hanging over your company.

The best advice when preparing to take on a new client? Prepare for the worst, hope for the best. The easiest way to always be prepared without spending excessive time writing up contracts is to have an editable template. Although the template outline will be the same, you can [customize it for individual clients](#):

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2. Discovery

3. Scope of Services

- Services
- ROI
- Time/Retainer
- Costs

4. Terms and Conditions

5. Appendix

6. Methods of Payment Accepted

7. Place to Sign

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Changing up the template means you can customize the terms of the scope and length of work, and still have your agency covered.

When you hand over the contract to your client, you'll know that when they sign, all expectations, costs, scopes, and timelines have been spelled out clearly. No surprises or lost revenue and an agreement that makes both parties happy.

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The majority of your marketing agreement with a client will focus on legal obligations and what's included in your scope. While most templates are perfectly fine to use, you should always consult with your legal team if you want to double check a clause or the contract's wording.

Here are 11 must-haves for any client contract.

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Service Contract

Marketing Agreement

This contract (the "Agreement") is entered into by and between the below named parties (the "Parties"). This offer will expire at the close of business on 19/02/2019 if not accepted in writing by counter-signing this Agreement by the aforementioned date.

Client (the "Client")



Contractor (the "Contractor")



It must cite both yours and your client's legal trading names (no nicknames). Underneath the trading names, you need to list the address where each business is legally registered. This is important because, if the relationship goes south, it's easier to contact them should you need to take legal action. Double check these details over with your client before anyone signs the dotted line.

2. Outline the contract's duration

When does your client want you to begin work, and when is the work going to end?

It's important to not only have a start and finish date but what a conclusion of work looks like. You need to clearly define that the contract will end when you've completed the job. No later.

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received. That way, there's no confusion on either side.

3. Make your scope of work bulletproof

Your scope of work is the one place that can land you in all sorts of trouble if you're not careful.

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Scope



Flat fee	
Billed monthly	
Marketing agreement	US\$10,000.00
US\$10,000.00/month	
US\$10,000.00 total	

Instead, it should be like its own appendix within the contract. The primary goal is to be very specific about what services are included in the price your client pays.

At the absolute minimum, you want to identify:

- What you and your client have agreed upon
- The services you will be providing
- What the tangible deliverables are for the services
- What you need from the client

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For example, if you're designing a client's website and don't limit the number of revisions, you could be tied up for months changing up color palettes and text boxes.

Don't be that agency. Make your scope as [detailed as you possibly can](#), and take as many pages as you require. Look how detailed this template is:

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- D. Submit and produce product and materials pursuant to annual timeline.
- E. Enhance through promotion all components of all activities contained in the Marketing & Promotion Plan.
- F. Attend all monthly Consumer Marketing Committee meetings.
- G. Provide monthly written status reports to the Consumer Marketing Committee and the Downtown Manager that include:
 - a. Update on Marketing Consultant activities relevant to the DDA Marketing & Promotion Plan.
 - b. Monthly income and expense summaries
 - c. Monthly & cumulative allocations of funds designated to support and enhance specific DDA events/activities.
 - d. Event follow-up reports within one month of completion of event. These reports to include all pictures and video from events' news stories or features, a list of business participants, survey summary from business participants, guest feedback through raffle or intercept surveys and any other elements deemed necessary by the Consumer Marketing Committee.
- H. Create and issue appropriate press releases, as approved by the Consumer Marketing Committee and Downtown Manager and provide copies of all releases prior to sending to media.
- I. Identify public relations opportunities for the downtown and strategies to create and obtain positive media coverage. Including notification of area media outlets of downtown events and information relevant to the DDA.

A scope of work with open-ended deliverables can become your enemy once you start work. An enemy that your agency can't afford.

4. Set a clear payment schedule

Nobody likes hammering a client for a [late payment](#) or an [overdue invoice](#). It's frustrating and can affect your client relationship.

The best way to avoid this is to have a clear payment schedule outlined from the moment you start working with clients. This part of your contract must outline the total amount you will be paid, how they will make payment, and if the payment is refundable:

Payment Terms

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payments, Contractor reserves the right to stop work until payment is received.

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great way to keep money flowing in if the project will take a couple of months to finish.

5. Don't be a pushover with late payments

It's awkward when people owe you money. But at the end of the day, business is business.

Make it clear from the moment you enter into an agreement with a client that if they pay your invoices late, there will be a penalty. If you've sent out an invoice to a client you have on a monthly retainer and they pay it ten days late, this affects your agency's cash flow. Don't think twice about including a late payment fee in your contract.

A late payment fee can either be a set dollar figure or a percentage of the invoice:

Late Payment

In the event an invoice is not paid on time, to the maximum extent allowable by law, Contractor will charge a late payment fee of 3.00% per month on any overdue and unpaid balance not in dispute.

Contractor's acceptance of such service charges does not waive its rights to any remedies for Client's breach of this Agreement. All payment obligations are non-cancelable and fees paid are non-refundable.

It's a gentle way to encourage clients to pay on time, and if they happen to be late once, you can use it to your discretion and waive the fee if you'd like. But if it becomes a regular occurrence, you should enforce the fee.

6. If a client wants to add on work, write down your conditions

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Avoid this at all costs. Be honest when a client comes to you requesting extra work. You can agree to take the work on, but you should provide them with a new quote at the same time.

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terms and conditions of your contract to see how much longer you need to keep working together. Or, if you are legally able to break the agreement at all.

Write a termination clause into the contract that will work for both parties, as the conditions to terminate the agreement will be the same for both of you:

Term & Termination

Either Party may terminate this Agreement at any time, with or without cause, upon 14 days written notice.

Either Party also may at any time terminate the Agreement immediately if: (i) the other party commits a breach of this Agreement and such party does not cure a breach within 5 days of written notice from the non-breaching party of such breach.

If this Agreement is terminated earlier by Client without cause, Client agrees to pay Contractor any and all sums which are due and payable for: (i) services provided as of the date of termination; and (ii) expenses already incurred, including those from documented non-cancelable commitments. Contractor agrees to use the best efforts to minimize such costs and expenses.

Termination for any reason shall not affect the rights granted to Client by Contractor hereunder. Upon termination, Client shall pay to Contractor all undisputed amounts due and payable. If upon termination Client has not paid undisputed fees owed for the material, deliverables or Services provided by Contractor as of the date of termination, Client agrees not to use any such material or the product of such Service, until Client has paid Contractor in full. Any provisions or clause in this Contract that, by its language or context, implies its survival shall survive any termination or expiration of this Agreement. Notwithstanding anything to the contrary in this Agreement, Contractor shall retain a perfected security interest in the deliverable or material until Client has made payment in full for all undisputed amounts as of the termination date. Contractor hereby agrees to release and waive its security interest in the deliverable and material upon receipt of full payment for all undisputed amounts.

Be sure to include:

- How much notice either you or your client must give

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8. Outline what will happen with a breach of contract

If either you or your client hasn't lived up to your end of the bargain, you are in breach of contract.

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To prevent this from happening put a breach of contract clause into your agreement that states your client can't work with another agency that performs the same work as yours while your contract is active. Or if they do, they have to terminate your contract first. That way, your agency isn't left out in the cold.

9. Who will own what? Make it clear.

You're creating the work. Your client pays for it. But who owns it?

Copyrights are an important clause to include in your marketing contracts, so there's no confusion about who owns what.

But copyrights can mean much more than that. Even if you hand over the final work to your client, there could be specific processes your agency uses to create the work (intellectual property), and you can decide if you want to keep them or hand them over in your contract price.

A lot of agencies "lease" their work to their clients, and if the client doesn't read their contract thoroughly, they may never be aware of this. This section might take some negotiation with your client, but in the long run, you'll be glad you discussed it thoroughly.

10. Have a confidentiality clause to protect your agency

Not only does this clause protect your agency, but your client, too. It should clearly state anything you don't want talked about in public without your written consent.

Common items to put in a confidentiality clause are:

- Your agency's rates

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- Any email exchanges between your agency and your client

Here is an example:

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~~By one party to the other party under this Agreement, provided such information is marked or indicated by the disclosing party to be confidential; (ii) and any information which ought reasonably be considered confidential with regard to the circumstances surrounding disclosure, whether or not such information is marked "Confidential".~~

In the event a party is required to disclose Confidential Information pursuant to a judicial or other governmental order, such party shall, to the maximum extent permitted by law or opinion of counsel, provide the other party with prompt notice prior to any disclosure so that the party or its client may seek other legal remedies to maintain the confidentiality of such Confidential Information.

Each party receiving Confidential Information shall be responsible for any breach of this provision that is caused by any of its employees, affiliates, representatives or agents and such party agrees to indemnify and hold harmless the other party from and against any liabilities, claims, damages, losses, costs and expenses resulting, directly or indirectly, from any breach by a party, or any of its employees or independent contractors, of any provision of this Agreement. The obligations of this Section shall survive termination of this Agreement for a period of 3 years.

On the flipside, you won't legally be able to discuss your client's operations, yet-to-be-released news about their company or emails either. The clause is a way for both parties to show that you've got each other's back.

11. Include an indemnity clause

Here's the scenario. Your client takes a financial hit that is a direct result of the work done by your agency. It's not great, but it happens. But if you haven't included an indemnity clause in your contract, your agency could be in big trouble.

It's the difference between you having to compensate your client, or getting off the hook:

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Client agrees to indemnify, defend and hold harmless Contractor from any and all claims, actions, damages, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees) arising in any manner caused by Client's (i) gross negligence; (ii) out of any claim that Client provided content, or any portion thereof in fact infringes upon or violate any proprietary rights of any third party, including but not limited to patent, copyright and trade secret rights; or (iii) from a breach or alleged breach of any of Client's representations, warranties or agreements herein.

TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, CONTRACTOR SHALL NOT BE LIABLE TO THE CLIENT FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOST PROFIT, LOSS OF BUSINESS OR THE LIKE) ARISING OUT OF OR RELATING TO THIS ATTACHMENT B OR THIS AGREEMENT, CONTRACTOR'S PERFORMANCE HEREUNDER OR DISRUPTION OF ANY OF THE FOREGOING, EVEN IF CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE CAUSE OF ACTION, WHETHER SOUNDING IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE. TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, CONTRACTOR'S AGGREGATE LIABILITY UNDER THIS ATTACHMENT B AND THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AGGREGATE COMPENSATION PAID BY CLIENT TO THE CONTRACTOR UNDER THIS AGREEMENT.

So it should come as no surprise that an indemnity clause is complicated and should be looked over by a legal team to ensure your agency is fully covered.

How to deliver a killer agency contract to your client

With the list above, the next step is preparing the contract.

First, the contract needs to look legit. Not a single client will hand over \$20,000 to an advertising agency if you've spent five minutes typing it up. It also needs to have your agency's logo, be correctly formatted, and typo-free if you want to close deals.

[PandaDoc](#) is an easy, free tool you can download a standout cover for your marketing agency contract:

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Agency Agreement Template

Prepared for [COMPANY NAME]

Created by [AGENCY]

But beyond making your contract look shiny and new, think about your client when writing the project as well.

If you are hired for a \$100 flyer design job, it's probably unnecessary to send a 100-page document that is undefeatable in any courtroom. Not only can this be intimidating to a client, but it could also delay the process of starting the project since they will need to review all 100 pages in full.

On the other hand, if you are hired for a big-ticket project (e.g., website redesign), you'll want to include everything we mentioned above and make the contract as airtight as possible.

Help with wording your contract

As already mentioned, you should *always* run a contract template past a lawyer before you start using it to sign clients. But if you don't have the budget to create a contract from scratch, you can use an online template instead.

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of unreadable text. We have no desire to trick you into signing something that you might later regret.
We do want what's best for the safety of both parties, now and in the future.

In short

You, Customer's name, are hiring Company Name located at Company's Address to design and develop a web site for the estimated total price of £ Price outlined in our previous correspondence. The agreed payment plan is at the end of the document.

PandaDoc also provides marketing agencies with free templates. Plus, the templates are littered with tips from PandaDoc to help you fill out the contract correctly if you get stuck:

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(Company or we) and [MARKETING COMPANY NAME], a company organized and existing in the State of [STATE], with an address at [ADDRESS] ("Remarketer" or "You").

In consideration of the mutual covenants set forth herein, and intending to be legally bound thereby, the parties agree as follows:

1. DEFINITIONS.



PandaTip: Every marketing agreement is different, so make sure you add and subtract from the language in this Section and elsewhere as appropriate.

The following definitions govern the meanings of the capitalized terms used in this Marketing Agreement:

1. "Certificate" shall mean a document created by Company and issued to Remarketer that indicates that Company is a Remarketer for Company Products.
2. "Customer" shall mean (i) an entity with its headquarters in the Territory (defined below), and persons with their residence in the Territory and (ii) with Company's prior written permission, an entity that is a subsidiary of a Customer, where the sales decision regarding the Product is made for the entity by the Customer.

Always ask for legal help before using a contract

Agency contracts can be complicated. There are lots of clauses to add to cover your agency in case a deal goes south, or to stop you from doing extra work because of a loophole.

That said, always consult a lawyer before using one in a business deal. This way, they can point out if there's an important detail that you've overlooked, and if a clause hasn't been written out properly.

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While contracts are an important part of any successful agency, they're just one piece of the puzzle when it comes to getting new clients. Sign up for an [Instapage Enterprise demo](#) today.

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