

General Terms and Conditions

Online Dialogue B.V.

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General Terms and Conditions Online Dialogue B.V.

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Article 1 / Definitions

“Online Dialogue”: Online Dialogue BV, with its registered office in Utrecht, listed at the Chamber of Commerce in Utrecht under number 302.68.397, also referred to as “Party”.

“Client”: any natural person or legal entity with whom Online Dialogue has concluded an agreement, also referred to as “Party”.

“Parties”: Online Dialogue and the Client collectively.

“General Terms and Conditions”: Online Dialogue BV’s General Terms and Conditions.

“Service(s)”: the digital marketing service(s) to be provided by Online Dialogue.

“Agreement”: the Agreement between Online Dialogue and the Client which is concluded in relation to the Service(s) in the manner determined in Article 3.

“Confidential Information”: any and all advice, materials (including equipment/software), documents, ideas, data or other information provided or received which:

- a) is/are related to financial information, research and development, business secrets or business information of the other Party;
- b) has/have been marked as confidential and entrusted to the other party in the context of the implementation of this Agreement.

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Article 2 / Applicability

1. These General Terms and Conditions apply to all offers issued by and all Agreements concluded with Online Dialogue with regard to the performance of Services and/or the supply of goods and to all associated or subsequent Agreements.
2. To the extent that Online Dialogue receives any offers or acceptances that refer to other (general) terms and conditions, their applicability is expressly excluded.
3. Variations of these General Terms and Conditions are only allowed if explicitly agreed in writing by Online Dialogue.
4. The annulment or nullity of one or more articles of these Terms and Conditions will not affect the validity of the other articles. Online Dialogue will be entitled to replace the nullified or void provision(s) by new provisions which resemble the nullified or void provision(s) as closely as possible.

Article 3 / Offers and agreements

1. Every offer made by Online Dialogue, whether verbal or in writing, is entirely free of obligation, unless expressly stated otherwise. Offers in writing are valid for 14 days, to be calculated from the date on which they are sent.
2. The description of the scope and quality of the service in catalogues, brochures and/or by any other means will be as accurate as possible. However, this information is binding only insofar as expressly confirmed in writing by Online Dialogue.

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3. An Agreement between the Client and Online Dialogue will only be concluded if Online Dialogue has confirmed this in writing.
4. If a Client's acceptance is at variance with the offer made by Online Dialogue to the Client, the agreement is only concluded when Online Dialogue has explicitly confirmed its agreement to the differences to the Client.
5. All the offers made by Online Dialogue to the Client and all the Agreements concluded between the Client and Online Dialogue are based on Online Dialogue's normal working hours and working conditions. If the work needs to be done out of Online Dialogue's normal working hours and/or under exceptional conditions, the costs for this will be considered as additional work. Online Dialogue is entitled to charge the Client such costs.
6. All prices quoted by Online Dialogue exclude VAT, unless expressly stated otherwise in writing.
7. The Parties may agree to amend the content of the Agreement in writing. Online Dialogue reserves the right to classify the agreed amendment and the resulting altered continuation as additional work and to charge the Client the full associated costs.
8. The Client must lend Online Dialogue its full cooperation required for performing the Agreement.
9. In performing the Agreement, the Client will make all necessary facilities available to Online Dialogue at its own expense. These include, but are not

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limited to, electricity, light, telecommunications facilities and auxiliary materials.

10. If Online Dialogue's performance of the Agreement is delayed due to the Client's direct or indirect failure to lend the required cooperation as stated in this article, Online Dialogue will be entitled to charge the Client the associated costs and damage.
11. Online Dialogue is entitled to engage agents, including subordinates, in performing the Agreement. The related costs will only be owed by Online Dialogue if and insofar as the Client could not have reasonably envisioned the engagement of a third party. The costs referred to in this paragraph will only be owed by Online Dialogue if the engagement of these agents is not further specified in the Agreement.
12. If the Parties agree a phased implementation of the Agreement, for which the Client must approve each phase separately, Online Dialogue is entitled to suspend the implementation of the next phase if the Client has not approved the completed phase and/or refuses to approve it.
13. Unless otherwise agreed, the starting date is the first day of the month for which Online Dialogue sends its first invoice.
14. Unless otherwise agreed, the Agreement is entered into for a period of one (1) year.

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15. When the Agreement ends, it will be automatically renewed for the period initially agreed, unless it is terminated.
16. The Parties are entitled to terminate the Agreement at the end of the agreed period. The Agreement must be cancelled in writing, at least two (2) months before it ends.

Article 4 / Confidentiality

1. Each Party is obliged to do everything it can to prevent Confidential Information that the other Party has learned of in the context of the implementation of this Agreement from coming to the attention of or into the possession of third parties. This does not apply if the Party disclosing it proves that such information was already publicly known other than by a breach of this obligation of confidentiality.
2. The Parties do not have the right to disclose the existence of a present or past business relationship between them in advertisements, commercials or in any other marketing activities, except with the other Party's prior and express written consent.
3. If the provisions of the preceding paragraph are infringed, the offending Party must pay the other Party an immediately payable penalty of EUR 5,000 (five thousand euro) for each infringement, without any further notice of default and without prejudice to the Parties' right to claim compensation for all the damage suffered.

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4. If this agreement is terminated for any reason whatever, the provisions of this article will continue to apply in full.

Article 5 / Deadlines

1. The completion period indicated by Online Dialogue starts once the Agreement has been concluded, or at least once the Client has provided Online Dialogue with the information required for delivery and/or insofar as the Client has fulfilled the obligations incumbent upon it upon concluding the Agreement.
2. If the agreed completion period is exceeded other than by force majeure, the Client will give Online Dialogue a reasonable period of time to meet its obligations. Online Dialogue will only be in default after this reasonable period has ended.
3. If the agreed completion period is exceeded on account of circumstances that are attributable to the Client, Online Dialogue may extend its completion period by at least the same length of time by which the completion period was exceeded. This will not affect the Client's payment obligation.

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4. If the Parties agree a phased implementation in the manner described in Article 3(12), the agreed completion period will be extended by the period that the Client fails to give its approval, as long as such failure to give approval is not the direct result of any failure in Online Dialogue's performance of the Agreement. If this failure to give approval lasts more than 14 days, Online Dialogue will be entitled to unilaterally determine when it will start performing the next phase. This will not affect the Client's payment obligation.
5. If Online Dialogue has reasonable doubts about the Client's fulfilment of its obligations under the Agreement, in particular but not limited to its obligation to pay, Online Dialogue will be entitled to suspend its obligations under the Agreement without being in default.

Article 6 / Payment

1. The Client pays invoices within 14 days of the invoice date, unless explicitly stated otherwise in writing by Online Dialogue.
2. The Client pays invoices without set-off, deduction, compensation and/or suspension for whatever reason, unless Online Dialogue has explicitly given the Client its written consent to such.
3. If the Client does not make payment of the full invoice amount within the period stated in Article 6(1), it will be in default without further notice. The Client will then owe Online Dialogue contractual monthly interest of 1% on the outstanding amount, or at least the statutory interest on the outstanding amount if the statutory interest rate exceeds this contractual interest rate.

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4. The Client's payments will first be deducted from any interest and costs due pursuant to Article 6(3), and then from the longest outstanding invoices.
5. Online Dialogue is not obliged to perform as long as the Client is in default.
6. The Client will pay all collection costs, whether legal or extra-judicial. Any extra-judicial costs will be calculated according to the prevailing collection rate of the Netherlands Bar Association, at a minimum of EUR 75.
7. Online Dialogue is entitled to require advance payment before starting to perform the Agreement, in accordance with the relevant mandatory legal provisions.
8. Any claims that Online Dialogue has against the Client (whether or not pursuant to termination as referred to in clause 9(1)) will be immediately payable if the Client is declared bankrupt/insolvent, applies for a suspension of payments, becomes subject to a debt restructuring scheme, loses full or partial power of disposition of its assets due to seizure or placement in guardianship, or if Online Dialogue has a reasonable fear that the Client will fail to fulfil its obligation to pay due to any statements made by the Client and/or the Client's circumstances. In any event, such will be the case if Online Dialogue requests the Client to provide an additional provision of security for compliance with its obligations and such provision of security is not given or is insufficient.

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9. Online Dialogue's fees will be indexed in accordance with the consumer price index published by Statistics Netherlands.

Article 7 / Reservation of ownership, Intellectual Property, Know How

1. Online Dialogue's implementation of the Agreement does not entail the transfer of intellectual property rights vested in Online Dialogue. All intellectual property rights that arise during the implementation of the Agreement or that result from it will be vested in Online Dialogue. Unless explicitly agreed otherwise in writing, nothing in this Agreement constitutes a full or partial transfer of Online Dialogue's Intellectual Property Rights.
2. Online Dialogue reserves ownership of the Services and goods delivered and yet to be delivered by it until the following have been performed:
 - a. the Client's consideration for all Services and/or goods to be delivered under the Agreement;
 - b. payment of claims that are the result of the Client's failure to perform the Agreement.
3. All intellectual property rights and related rights in connection with the result of the work carried out by Online Dialogue on behalf of the Client are vested in Online Dialogue. Only Online Dialogue may complete any formalities required in order to obtain these intellectual property rights.

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4. The Client guarantees that the materials, data, content, notifications etc., made available to Online Dialogue for the performance of any assignment, do not infringe legal regulations or the protected rights of third parties and, furthermore, that they are not unlawful in relation to third parties. The Client indemnifies Online Dialogue against any claims by third parties or against the direct or indirect consequences, financial or otherwise, resulting from the use of these materials, data etc. by Online Dialogue.
5. Any items that belong to Online Dialogue pursuant to paragraph 1 or 2 will only be used by the Client in the context of its normal conduct of business. The Client may not transfer ownership of these items or pledge them or encumber them with a restricted right.
6. The Client may not disclose any items, or data included in them or made known to it in any other way, to third parties, unless Online Dialogue explicitly consents to this in writing.
7. If the provisions of paragraphs 3 and 5 are infringed, the Client will owe a penalty of EUR 5,000 for each infringement, without prejudice to Online Dialogue's right to claim compensation for the full damage.

Article 8 / Complaints

1. The Client must notify Online Dialogue in writing of any complaints about the goods and/or Services delivered, as well as about invoices, within 14 days of delivery of these goods or Services and/or within 14 days of the invoice date, stating reasons.

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2. The right to claim lapses if the Client has not made a claim within this period and/or the Client has not enabled Online Dialogue to look into the validity of the claim, if necessary on site.
3. If the Client exercises its right to claim with due observance of the provisions of this clause, it will continue to be obliged to meet its obligations to Online Dialogue under the Agreement. The Client's exercise of this right will not entitle it to suspend its obligations to Online Dialogue under the Agreement.

Article 9 / Termination

1. Subject to Online Dialogue's statutory rights in the event of default on the part of the Client, the agreement will be terminated without judicial intervention upon submission of a written statement on the date that the Client is declared bankrupt/insolvent, applies for a suspension of payments, becomes subject to a debt restructuring scheme or loses full or partial disposition of its assets due to seizure, placement in guardianship or otherwise.
2. Such termination will cause any existing claims to become immediately due and payable. The Client will be liable for any damage Online Dialogue incurs, including but not limited to loss of profits.

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Article 10 / Liability

1. Online Dialogue is only liable for any damage the Client suffers from an attributable failure to perform the Agreement by Online Dialogue, or by third parties and/or subordinates engaged by Online Dialogue to perform the Agreement, with the amount of the damage Online Dialogue may owe being capped at the monetary value of the Agreement the Parties have concluded. In the event of continuing performance agreements or agreements with terms that exceed six months, the amount of the damages Online Dialogue may owe will be capped at the monetary value of no more than six months of that Agreement.
2. Online Dialogue is not liable for any damage arising directly or indirectly, whether or not in the context of the performance of the Agreement, from actions performed by the Client or third parties and/or subordinates it has engaged.
3. Insofar as the Client incurs damage resulting from unlawful acts, wilful acts and/or gross negligence on the part of Online Dialogue or third parties and/or subordinates engaged by Online Dialogue, the amount of the damages Online Dialogue may owe will be capped at EUR 250,000 per damage-causing event, with a series of related events being deemed to be a single event.
4. Subject to the provisions of this article, Online Dialogue will not be liable for any other damage the Client may incur.

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5. If and to the extent that the above provisions cannot be invoked, the damages for each event – with a series of related events being deemed to be a single event – will in no circumstances exceed the price excluding VAT agreed by the Parties in the Agreement in the context of which the event occurred.

Article 11 / Force majeure

1. The completion period agreed by Online Dialogue and the Client will be extended by the period during which Online Dialogue is prevented from meeting its obligations due to force majeure.
2. Force majeure on the part of Online Dialogue will be deemed to exist if Online Dialogue, after concluding the Agreement, is prevented from meeting its obligations under this Agreement or from making preparations for it due to war, danger of war, civil war, terrorism, riots, wilful damage, fire, water damage, flooding, work strikes, sit-down strikes, lock-outs, import and export impediments, government measures, defective machinery, power failures, all this both in Online Dialogue's operations and those of any third parties whose goods Online Dialogue requires in order to perform the Agreement, as well as during storage or transportation, whether or not under its own management, and furthermore due to any other causes for which Online Dialogue bears no blame or which occur outside Online Dialogue's control.

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3. If, due to force majeure, the performance of what has been agreed is delayed by more than two months, both Online Dialogue and the Client may consider the Agreement terminated. In that case, Online Dialogue will only be entitled to the costs it has incurred itself, including payment for the Services and/or goods it has already supplied to the Client. In all other respects, the Parties are not subject to any obligation to cancel and/or pay damages.

Article 12 / Data and Information

1. The Client retains the title to the data stored, edited, processed or otherwise entered with the aid of the Service.
2. Online Dialogue is not obliged to check the correctness and completeness of the data supplied, and will therefore not be liable for the consequences of the use of incorrect and/or incomplete information supplied by the Client.
3. In order to facilitate the adequate implementation of the Agreement by Online Dialogue, the Client will always supply Online Dialogue in good time with the data and information required within reason by Online Dialogue.

Article 13 / Security

1. The Parties are obliged to inform their employees or the third parties they engage, at the start of the Agreement, about the applicable regulations on information security. The Parties undertake to instruct their staff members or third parties they engage correctly and in full so that these regulations are observed correctly.

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Article 14 / Subcontracting and Secondment

1. Online Dialogue is entitled to engage third parties in the fulfilment of its duties under the Agreement, irrespective of whether this is done on the basis of subcontracting or hiring staff. In doing so, Online Dialogue will impose the duty of secrecy laid down in these Terms and Conditions on those third parties.
2. In the event of secondment, the Client hereby indemnifies Online Dialogue against any claims (including claims referred to in Articles 7:658 and 7:611 of the Dutch Civil Code) lodged by a seconded Online Dialogue employee against Online Dialogue and/or the Client on account of any damage that a seconded Online Dialogue employee may have incurred when carrying out his or her work at the Client.
3. During any secondment period, the Client will be responsible for making its workplace compliant with all statutory (occupational health and safety) standards and will also ensure that adequate liability insurance is taken out for the persons working within the Client's business, therefore including Online Dialogue staff members.
4. During the term of the Agreement concluded between the Parties, and for a period of twelve months after its termination, the Client is expressly prohibited from offering an employment contract, issuing an assignment or otherwise assigning activities to Online Dialogue employees or third parties affiliated to Online Dialogue who are (or were) involved in the services performed by Online Dialogue, unless Online Dialogue gives its express and written consent to do so. The Client is also obliged to impose this prohibition on the natural or legal persons affiliated to it.

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Article 15 / Transfer of Rights and Obligations

1. The Client is not entitled to transfer rights and obligations to a third party without obtaining Online Dialogue's prior written consent. Online Dialogue is not permitted to refuse this consent on unreasonable grounds.
2. Online Dialogue is entitled to transfer all rights and obligations acquired in the context of the Agreement to third parties without any additional limitation. It will notify the Client of this as soon as possible.

Article 16 / Ranking Order of Legal Documents

1. If general terms and conditions and contracts of third parties are deemed not to apply, for any reason, in the relationship between the Client and Online Dialogue, or are declared inapplicable, the provisions of Online Dialogue's General Terms and Conditions and any addenda or supplementary General Terms and Conditions will apply in full.
2. In the event of any inconsistency between Online Dialogue's General Terms and Conditions and the provisions of the Agreement with the Client, the provisions of the Agreement will prevail.

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Article 17 / Disputes

1. Any disputes that arise between the Parties, whether as a result of their Agreement or further agreements that may arise from it or from any other existing or future legal relationship such as, though not exclusively, one concerning an unlawful act, undue payment and/or unjust enrichment, will be resolved by the District Court of the Central Netherlands, notwithstanding any binding rules of jurisdiction that may prevent this.
2. All existing legal relationships between Online Dialogue and the Client, including any precontractual legal relationships, will be governed by Dutch law. A dispute will be deemed to exist if one of the Parties makes a statement to that effect.