

GENERAL TERMS AND CONDITIONS

These are the General Terms and Conditions of MeMo2 B.V., having its registered offices at Jan Luijkenstraat 92K, 1071 CT Amsterdam, the Netherlands, Chamber of Commerce 34214691, VAT number NL813.668.013B01 ("MeMo2"). MeMo2 provides innovative solutions and services in on line marketing as well as research and consulting services.

1. Definitions

In these General Terms and Conditions the following terms shall have the meaning set forth below.

- Agreement: The agreement between MeMo2 and the Client regarding the provision of the Services, which is set forth in a Purchase Order accepted by the Client and to which these General Terms and Conditions shall apply.
- Client: The party to whom the Purchase Order of MeMo2 is submitted or with whom MeMo2 has entered into an Agreement.
- Deliverables: Any results from the Services, as specified in the Purchase Order.
- Fees: The payments due by Client for the provision of the Services.
- IP-Rights: Any patent, registered design, copyright, design right, trade mark, service mark, as well as any application to register any of the aforementioned rights, trade secrets, know-how, *sui generis* rights in databases (incl. respondents panel databases) and any other intellectual or industrial right of whatever nature in any part of the world.
- Parties: The parties to the Agreement, being the Client and Memo2.
- Purchase Order: The purchase order in the format provided by MeMo2 that shall contain the specifications with regard to the Agreement, such as the term of the Agreement, the Services, Deliverables (if any) and Fees.
- Services: The services rendered by Memo2 to Client, as further specified in the Purchase Order.

2. Scope of the General Terms and Conditions

- 2.1 The General Terms and Conditions shall cover and form part of all offers, Purchase Orders, Agreements and other legal acts, either made orally, in writing, electronic or

in any other form, concerning the provisions of the Services by MeMo2.

- 2.2 The General Terms and Conditions also apply to services (partly) obtained by MeMo2 from a third party and which are, either processed or not, provided to the Client.
- 2.3 MeMo2 explicitly rejects any applicability of any general (purchase) conditions used by the Client.

3. Offer and Acceptance

- 3.1 All offers by MeMo2 shall be without any obligation unless explicitly otherwise stated in writing. The Client warrants the accuracy and completeness of all information and data on which MeMo2 bases its offer and which have been stated by or on behalf of the Client to MeMo2.
- 3.2 All offers are valid for the period as mentioned in the Purchase Order.
- 3.3 An Agreement shall have been concluded as soon as the Client accepts MeMo2's Purchase Order in writing (which includes fax and e-mail), or as soon as MeMo2 has commenced providing the Services.
- 3.4 In the event that an Agreement is concluded by e-mail or in the event that an Agreement is concluded through another means of electronic communication, such e-mail message or statement made through another means of electronic communication must be deemed to be equal to a written statement and the principle will apply that an Agreement may be concluded without MeMo2 having to fulfil any conditions provided by law pertaining to electronic communication.

4. Price, payment and additional work

- 4.1 The Fees are specified in the Purchase Order. All prices and Fees shall be exclusive of VAT and other levies imposed by the government. All payments must be made in euros.
- 4.2 MeMo2 is entitled at any time to adjust its prices and Fees. Unless agreed upon in writing that prices and Fees are fixed for a certain period, all announced adjustments will enter into force within the term as specified in MeMo2's notification. If the Client does not wish to agree on such an adjustment, the Client shall, within the term as specified in MeMo2's notification, be entitled to terminate the Agreement for convenience.
- 4.3 MeMo2 will be entitled to also adjust Fees, in the event of increases in cost-determining factors such as fluctuations in exchange rates, raw materials, labour costs or in the event of government measures, provided that such increases or measures occurred after the conclusion of the agreement but before provision of the Services.
- 4.4 Fees are payable and due in advance. MeMo2 shall only perform its obligations under the Agreement after it has received full payment of the Fees by the Client.

- 4.5 If, at the request of or with prior consent from the Client, MeMo2 has performed work or rendered other performance which goes beyond the substance or scope of the agreed Services, the Client shall pay for that work or performance according to MeMo2's usual rates. MeMo2 shall never be obliged to satisfy such a request, and it may require that a separate written Agreement be concluded. The Client accepts that additional work or performance may affect the agreed or expected time of completion of the Services and the mutual responsibilities of the Client and MeMo2. The fact that additional work (or the demand for it) arises during execution of the Agreement shall never be a ground for the Client to rescind or terminate the Agreement.
- 4.6 The Client shall pay invoices in accordance with the payment conditions stated on the invoice. In the absence of a specific provision, the Client shall pay within thirty days after the invoice date. The Client shall not be entitled to set off or to suspend a payment.
- 4.7 If the Client does not pay the amounts owed in a timely manner, the Client shall owe legal interest on the outstanding amount, without any written demand or notice of default being necessary. If the Client still does not pay the claim after a written demand or notice of default, MeMo2 can pass on the claim for collection, in which case the Client shall, in addition to the total amount owed then, be obliged to pay for all in-court and out-of-court expenses, including expenses charged by external experts in addition to the costs determined at law. The Client shall also owe the expenses incurred by MeMo2 in regard to unsuccessful mediation if the Client is ordered by a judgment to pay the outstanding amount in full or in part.

5. Provision of Services

- 5.1 MeMo2 shall render reasonable efforts in providing the Services to the Client in accordance with the specifications as set forth in the relevant Purchase Order. Client understands and agrees that MeMo2's performance is dependent, in part, on Client's actions, in particular with Client's compliance with its own obligations.
- 5.2 Any use of the Deliverables is for the Client's own account and risk. MeMo2 excludes any and all liability with respect to the Client's use of the Deliverables.
- 5.3 Any delivery times quoted by MeMo2 may not be considered to be firm deadlines. In the event of late delivery, MeMo2 must be declared to be in default in writing, whereby it will be granted a reasonable term to fulfil its obligations. In the event that such extended term is exceeded, Client will be entitled to dissolve the Agreement. In such an event, MeMo2 will not be liable to pay any damages, unless such damages are the consequence of an intentional act or intentional omission or of gross negligence of MeMo2's executive management.

6. Intellectual Property Rights

- 6.1 MeMo2 reserves all rights not expressly granted in these General Terms and Conditions. The Client acknowledges and agrees that MeMo2 and/or its licensors retain all IP Rights in and to the Services, the Deliverables and/or any other work products delivered to the Client.
- 6.2 The provision of the Services does not imply any transfer of the IP Rights. The Client will only obtain a personal, non-exclusive, non-transferable and revocable right to use the Deliverables, for internal business purposes only. The Client may not further exploit or commercially (re)use the Deliverables, nor any parts thereof. The Client may also not amend or alter the Deliverables.
- 6.3 The Client shall not be allowed to remove or modify any designation concerning the confidential nature or concerning copyrights, trademarks, business names from the Deliverables.

7. Obligations Client

- 7.1 The Client shall always furnish MeMo2 in a timely manner with all data or information, which is useful and necessary to execute the Agreement properly and the Client shall provide its full cooperation.
- 7.2 The Client shall always assist MeMo2, upon MeMo2's first request, if so required by MeMo2 in providing the Services.
- 7.3 The Client shall at all times properly and timely meet any specific obligations specified in the Purchase Order.
- 7.3 If the Client fails to comply with the above mentioned obligations, MeMo2 shall be entitled to suspend execution of the Agreement in whole or in part, and it shall be entitled to charge the ensuing expenses in accordance with its usual rates, all of this without prejudice to MeMo2's right to exercise any other legal right.

8. Confidentiality

- 8.1 Each Party agrees that it will use reasonable best efforts to keep in confidence any confidential information provided by the other Party under this Agreement, including but not limited to intellectual property, know-how, business processes and/or information regarding business operations, plans, methods, finances, employees, or organizational structure, and will not disclose any such information to any third party except in accordance with the terms and conditions of this Agreement or as required by law.

9. Limitation of Liability

9.1 MeMo2's liability, whether based upon breach, tort or otherwise, shall be limited to compensating direct damages only. In no event shall MeMo2's total and aggregate liability for direct damages exceed the amount of the Fees paid to MeMo2. "Direct damages" shall solely mean:

- a. property damages;
- b. reasonable expenses which the Client would have to incur to make MeMo2's performance conform to the Agreement; this alternative damage shall not be compensated, however, if the Agreement is rescinded by or at the suit of the Client;
- c. reasonable expenses incurred to determine the cause and scope of the damage, insofar as the determination relates to direct damage within the meaning of this Agreement;
- d. reasonable expenses incurred to prevent or mitigate damage, insofar as the Client demonstrates that these expenses resulted in mitigation of direct damage within the meaning of this Agreement.

9.2 MeMo2's liability, whether based upon breach, tort or otherwise, for any other damages than direct damages is fully excluded, including but not limited to consequential damages, loss of profits, loss of business, loss of anticipated savings, damages due to delay of performance, or any other similar financial loss or loss of goodwill, independent of whether the Client provides notice to MeMo2 of such potential injury, damages or loss.

9.3 In the event that the Client has rescinded ("*ontbinding*" Article 6:265 Dutch Civil Code) the Agreement as a result of a breach by MeMo2, the limitations and exclusions of liability are absolute such that the Client waives the right to claim damages in addition to restitution of amounts paid resulting from the rescission.

9.4 In any event, the Client or any third party's right to claim damages shall lapse the earlier of the completion of the Services, or within three (3) months after the occurrence giving rise to the claim or action.

9.5 The Client indemnifies MeMo2 and its affiliates at all times against any action, claim, demand or expense, loss, damages or costs (including reasonable attorneys costs) arising from, or incurred by reason of the use of the Deliverables and/or arising from, or incurred by reason of the Client breaching any provision of these General Terms and Conditions.

9.6 The indemnity obligations by the Client are continuing obligations and will survive the termination or rescission of the Agreement.

9.7 The limitations mentioned in the preceding paragraphs of this article 9 shall not apply if and insofar as the damage or injury is the result of intentional acts or omissions or gross negligence by MeMo2 or its board of directors.

10. Force Majeure

10.1 MeMo2 shall be entitled to invoke force majeure if the execution or the performance of the Agreement is, in whole or in part, temporarily or not, prevented or impeded by circumstances reasonably beyond its control, including but not limited to: (i) site or building blockades, strikes, riots, civil disruption, war, terrorist acts, inclemency, epidemic, specific work interruptions, delay in transportation, earthquake, fire, storm, flood, or water damage; (ii) delay in or cancellation of the delivery to MeMo2 of parts, goods or services ordered from and/or rendered by third parties; or (iii) governmental, legal or regulatory restrictions.

10.2 If a situation of force majeure lasts for more than ninety (90) days, the Parties shall be entitled to terminate the Agreement by rescinding it in writing. What has already been performed pursuant to the Agreement shall in that case be settled proportionately, without the parties otherwise owing each other anything.

11. Term and Termination

11.1 The Agreement is entered into from the moment it has been signed by both Parties and will end by operation of law on the date as specified in the relevant Purchase Order and/or upon completion of the Services, unless terminated earlier in accordance with this Article.

11.2 The Agreement cannot be (early) terminated by the Client for convenience or otherwise cancelled (whether or not in advance) by the Client.

11.3 Without prejudice to MeMo2's rights under these terms and conditions or under the law, MeMo2 will at any rate be entitled to suspend (further) performance if the Client fails to fulfil one or more of its obligations ensuing from any Agreement or MeMo2 has sound reasons to believe that the Client is or will be unable to fulfil its obligations under any Agreement. Any right of the Client to suspend performance is hereby excluded.

11.4 Each of the Parties shall only be entitled to rescind the Agreement if the other Party imputably fails to perform material obligations under the Agreement - in all cases, after having received a proper written notice of default which is as detailed as

possible and in which it has been given a reasonable time period to remedy the breach, unless the breach is not remediable.

- 11.5 Each of the Parties may partly or completely terminate the Agreement in writing with immediate effect and without a notice of default if the other Party is granted a provisional or non-provisional suspension of payments, if a petition for liquidation is filed with regard to the other Party or if the other Party's business is wound up or terminated for other reasons besides a business reconstruction or merger. MeMo2 shall never be obliged on account of this termination to refund funds already received or to pay damages. In the event of the Client's liquidation, the right to use the Deliverables shall be extinguished by law.
- 11.6 MeMo2 has the right to terminate the Agreement in writing with immediate effect and without notice of default if the Client infringes on the IP-Rights of MeMo2, notwithstanding MeMo2's other rights and remedies, including its right to claim damages.
- 11.7 If, at the time of the rescission referred to in Article 11.4, the Client has already received performance in connection with execution of the Agreement, this performance and the related payment obligation shall not be cancelled, unless the Client proves that MeMo2 is in default with regard to that performance. Amounts which MeMo2 has invoiced before the rescission in connection with what it has already properly performed or delivered to execute the Agreement shall, subject to the provisions in the preceding sentence, continue to be owed in full and shall be immediately payable at the time of rescission.
- 11.8 The Articles that by their nature are destined to survive termination of this Agreement, shall remain in full force and effect after termination, including but not limited to Articles 6, 8, 9 and 12.

12. Applicable law and jurisdiction

- 12.1 The Agreement, including these General Terms and Conditions shall be governed by the laws of the Netherlands. The UN Convention on Contracts for the International Sale of Goods ('CISG') does not apply.
- 12.2 All controversies, disputes or claims arising out of or relating to this Agreement or the breach thereof shall be exclusively and finally settled by the competent civil court in Amsterdam, the Netherlands.

13. General provisions

- 13.1 Except as required by law, neither party shall disclose the terms, conditions or existence of an Agreement without the prior written consent of the other party.

- 13.2 If any provision of the Agreement (including these General Terms and Conditions) shall be held to be illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that the Agreement shall otherwise remain in full force and effect and enforceable.
- 13.3 The failure by a party to exercise any rights hereunder shall not operate as a waiver of such party's right.
- 13.4 All formal notices shall be in writing and sent by registered mail or transmitted by facsimile.
- 13.5 Any variation from the Agreement will be valid only if and to the extent that it has been expressly confirmed by MeMo2 in writing.
- 13.6 Where applicable, if MeMo2 has access to personal data when performing the Services, and performing the Services requires MeMo2 to process these personal data, MeMo2 will only be acting as processor (*bewerker*) within the meaning of the Dutch Personal Data protection Act. The Client indemnifies MeMo2 and its affiliates at all times against any action, claim, demand or expense, loss, damages or costs (including reasonable attorneys costs) arising from, or incurred by reason of MeMo2 processing personal data.
- 13.7 The Client may not assign its rights, obligations nor the entire Agreement without MeMo2's explicit prior written consent. MeMo2 may attach conditions to granting consent.
- 13.8 MeMo2 may, without the Client's consent, subcontract its obligations under an Agreement.