

GENERAL TERMS AND CONDITIONS SERVICES DELOKALEPLANNER

Version 1. March 2020

1 DEFINITIONS

- 1.1 Advertisement: public notice, designed to promote goods, services or events.
- 1.2 Ad Space: the space available for Advertisements on a Property.
- 1.3 Agreement: the written agreement between DeLokalePlanner and Client on the basis of which DeLokalePlanner performs Services for Client.
- 1.4 Client: the organization that receives an Offer from or executes an Agreement with DeLokalePlanner.
- 1.5 Confidential Information: all information supplied by Client, including but not limited to information relating to its organization, personnel, customers, suppliers, internal processes, strategies, designs, products, production methods, systems.
- 1.6 Fee: the fee to be paid by Client under the Agreement for the Services.
- 1.7 Offer: a written offer by DeLokalePlanner for the performance of Services.
- 1.8 Property: a website or mobile application that is made available through the internet and on which Ad Space is available.
- 1.9 Services: the services to be performed by DeLokalePlanner for the benefit of Client and as described in the Offer and/or Agreement.
- 1.10 DeLokalePlanner: DeLokalePlanner B.V., a limited liability company incorporated under the laws of the Netherlands, registered with the Chamber of Commerce under number 60411716.

2 APPLICABILITY

- 2.1 These general terms and conditions are applicable to all Offers and Agreements.
- 2.2 Client's general (purchase) terms and conditions are not applicable to the Offer and/or Agreement.
- 2.3 In the event of a conflict between these general terms and conditions and the Agreement, the provisions of the Agreement shall prevail.

3 OFFERS AND EXECUTION OF THE AGREEMENT

- 3.1 All Offers are valid for thirty (30) days as of the date they are made by DeLokalePlanner.
- 3.2 The Agreement is executed by:
 - a) a written document, signed by both DeLokalePlanner and Client; or
 - b) written acceptance by Client of an Offer during the term that the Offer is valid; or
 - c) written acceptance by DeLokalePlanner of Client's order for the performance of Services.

4 NATURE AND PERFORMANCE OF THE SERVICES

- 4.1 The Services can pertain to the placement of Advertisement of Client on Properties of third parties and the exploitation of Ad Space on Client's Properties.
- 4.2 DeLokalePlanner shall provide the agreed Services to the best of its knowledge and capabilities. The Services shall be performed on the basis of a best efforts obligation.
- 4.3 The control and supervision of the Services shall reside with DeLokalePlanner and DeLokalePlanner reserves the right to perform the Services in the manner it sees fit.
- 4.4 DeLokalePlanner shall at all times be entitled to replace the employees and/or technology it uses for the performance of Services.

5 OBLIGATIONS OF DELOKALEPLANNER

- 5.1 DeLokalePlanner shall continuously assess and monitor the content of Advertisements published on Client's Properties under the Agreement and the content of the Properties on which Client's Advertisements are published under the Agreement, as the case may be. DeLokalePlanner however cannot guarantee and is not liable towards Client that any third party Advertisements displayed on Client's Properties under the Agreement and third party Properties on which Client's Advertisements are published under the Agreement shall:
 - a) conform to the applicable legislation;
 - b) be in accordance with common decency and public policy;
 - c) not infringe any (intellectual property) rights of any third party;
 - d) conform to the specifications agreed in the Agreement.
- 5.2 The performance of the Services may require licenses for third party products. DeLokalePlanner shall procure the licenses for such products unless otherwise agreed in the Agreement.

6 OBLIGATIONS OF CLIENT

- 6.1 Client shall provide DeLokalePlanner in a timely manner and free of charge with all information that may reasonably be required for the performance of the Services, including but not limited to the specifications of the Ad Space or the Advertisement to which the Services pertain. Client shall warrant the accuracy and completeness of the information submitted to DeLokalePlanner and bear the risk for any inaccuracy, incompleteness or inconsistency of this information. Including but not limited to any delay in delivery.
- 6.2 Client shall procure that its Properties or Advertisements to which the Services pertain shall:
 - a) conform to the applicable legislation;
 - b) be in accordance with common decency and public policy;
 - c) not infringe any (intellectual property) rights of any third party.
- 6.3 In addition to Article 6.2, Client shall procure that its Properties or Advertisements to which the Services pertain shall not contain any of the following:
 - a) pornographic, adult of mature content;
 - b) violent content;
 - c) hate speech, harassment, bullying or similar content that advocates harm against an individual or group;
 - d) promotion of sales of alcohol, tobacco-related products, prescription drugs, weapons or ammunition.
- 6.4 DeLokalePlanner reserves the right to adjust the obligations in Articles 6.2 and 6.3 at its own discretion at any time upon written notice to Client.
- 6.5 DeLokalePlanner reserves the right to suspend the performance of the performance of the Services in whole or in part for the duration of a period in which Client does not comply with its obligations pursuant to this Article.

7 FINANCIAL TERMS

- 7.1 The Fee for the Services and the invoicing schedule for the Fee shall be included in the Agreement.
- 7.2 The relevant documents and information from DeLokalePlanner's and/or its partners administration or systems shall be conclusive evidence of the Services provided by the Supplier and the Fee owed by Client under the Agreement.
- 7.3 Estimates by DeLokalePlanner of the number of hours required for the Services shall not bind DeLokalePlanner.
- 7.4 In the event Client pays Services upfront, these Services have to be ordered within the period agreed in the Agreement. The Fee for Services not ordered shall not be credited by DeLokalePlanner.
- 7.5 The payment term of DeLokalePlanner invoices is sixty (60) days as from the invoice date, unless otherwise agreed in the Agreement. Upon expiration of the payment term and failure by Client to pay the outstanding amount after notice of default, Client shall owe DeLokalePlanner the applicable legal interest over the outstanding amount as of the due date of the invoice. Furthermore, DeLokalePlanner shall be entitled to pass on the claim for collection when Client is in default. In this case, Client shall be obliged to pay, in addition to the outstanding amount including applicable legal interest, all reasonable (extra) judicial costs incurred in the collection of the outstanding amount.
- 7.6 Amounts owed by Client to DeLokalePlanner under the Agreement may not under any circumstances be withheld or offset by Client against amounts owed by DeLokalePlanner to Client.
- 7.7 All amounts mentioned in the Agreement are in euros and exclusive of value added tax (VAT) and other levies imposed by the government.

8 CANCELLING/REDUCING OF CAMPAIGN BUDGET

- 8.1 It is not possible to cancel/reduce booked campaigns without a fee. The rules for cancelling a campaign are as follows depending on when the written cancellation is received:
- between 25 and 15 working days before the campaign start date – cancellation costs 25% of the campaign budget;
 - less than 15 working days before the campaign start date – cancellation costs 75% of campaign budget;
 - if cancelling is done on the day of launch of during the campaign period – the cancellation fee will be 100% of the campaign budget.
- 8.2 Campaign cannot be cancelled if it has been rescheduled.

9 CAMPAIGN MATERIAL

- 9.1 Material should be delivered at least five working days before start by advertiser. Failure by Advertiser to deliver material on agreed deadline may result in not starting on time or not running for the expected length.

10 DELIVERY, TRANSFER OF RISK AND RETENTION OF RIGHTS

- 10.1 All delivery terms mentioned by DeLokalePlanner or included in the Agreement have been set to the best of DeLokalePlanner's knowledge based on the information known to DeLokalePlanner at the time the Agreement was executed and are dependent on Client delivering the specifications of Ad Space or Advertisement to which the Services pertain. DeLokalePlanner shall use its best efforts to meet agreed delivery dates. Agreed delivery dates shall, however not be final dates. If a delivery term is exceeded, DeLokalePlanner shall immediately inform Client thereof and the parties shall then agree on a new delivery date.
- 10.2 The risk of loss of, theft of or damage to the items delivered to Client under the Agreement shall pass to Client when Client or any third party appointed by Client comes into actual possession of these items.
- 10.3 All items delivered and rights transferred under the Agreement shall remain the property of DeLokalePlanner until Client has fulfilled its obligations pursuant to the Agreement.

11 PROTECTION OF CLIENT'S CONFIDENTIAL INFORMATION

- 11.1 DeLokalePlanner shall be obligated to treat Client's Confidential Information with reasonable care from unauthorized dissemination.
- 11.2 DeLokalePlanner shall not disclose (in writing or verbally, directly or indirectly, by action or omission) to third parties Client's Confidential Information without the prior written consent of Client, unless legally obligated to such disclosure.
- 11.3 DeLokalePlanner shall not use Client's Confidential Information for any other purpose than the execution of the Agreement. DeLokalePlanner however reserves the right to use at its own discretion any information it receives during the performance of the Services on internet traffic of the visitor/viewer of the Property or the Advertisement to which the Services pertain.

12 PUBLICITY

- 12.1 DeLokalePlanner reserves the right to use any references to Client's name, Properties and Advertisements, as the case may be, for publication purposes on DeLokalePlanner's Services for Client.

13 DATA PROCESSING

- 13.1 If DeLokalePlanner deems this to be necessary for the purpose of executing the Agreement, Client shall, upon request, notify DeLokalePlanner immediately in writing with regard to the manner in which Client executes its obligations pursuant to legislation in respect of the protection of personal data.
- 13.2 Client shall indemnify DeLokalePlanner against any claims by individuals whose personal data is recorded or processed within the context of a register of personal data maintained by Client or for which Client is responsible pursuant to the law or otherwise, unless Client is able to demonstrate that the acts that form the basis of the claim are exclusively attributable to DeLokalePlanner.
- 13.3 Responsibility for the data processed during the performance of the Services shall rest solely with the Client. Client shall guarantee DeLokalePlanner that the content, the use and/or the processing of the data is not unlawful and does not infringe the rights of third parties. Client shall indemnify DeLokalePlanner against legal claims by third parties, of whatever nature, in relation to this data or the execution of the Agreement.
- 13.4 If the Agreement stipulates that DeLokalePlanner is obliged to provide some form of information security, these security measures shall be in accordance with common practice. DeLokalePlanner shall not guarantee that the information security will be effective under all circumstances.
- 13.5 Client acknowledges that during the performance of the Services, cookies of DeLokalePlanner or third parties may be stored on the computer or other devices form or on which the Properties or Advertisements to which the Services pertain are visited and/or viewed. Such cookies shall not store, save or collect any personal data relating to an identified or identifiable natural person. DeLokalePlanner reserves the right to use of have used the information derived from such cookies at its own discretion, e.g. for the benefit of visitor usage tracking, conversion and referral tracking and targeting.

14 LIABILITY AND INDEMNIFICATION

- 14.1 The total liability of DeLokalePlanner per event or series of events and resulting from or related to (the performance of) the Agreement is limited to compensation of Client's direct loss or damage and to the lowest of the following two (2) amounts: the Fee paid by Client under the Agreement in the three (3) months preceding the event that caused the loss or damage and € 25.000,00 (twenty five thousand euros).

- 14.2 The liability of DeLokalePlanner for indirect loss or damage, including but not limited to consequential loss or damage, lost profits, lost savings, loss of or damage to data, is excluded at all times.
- 14.3 The restrictions on liability as included in Articles 14.1 and 14.2 are not applicable in case of intent or deliberate recklessness by DeLokalePlanner or its employees.
- 14.4 The restrictions on liability as included in this Article shall also apply in favor of all third parties that DeLokalePlanner engages for the performance of the Agreement.
- 14.5 Client shall be liable for all loss or damage of DeLokalePlanner resulting from a breach by Client of the obligations in Article 5.2. Client shall furthermore indemnify DeLokalePlanner against any claim or allegation brought against DeLokalePlanner by a third party in connection with any such breach.
- 14.6 Any claim for damages against DeLokalePlanner shall expire by the mere passage of one (1) year from the date on which the claim arose.

15 TERM AND TERMINATION OF THE AGREEMENT

- 15.1 The term of the Agreement shall be included in the Agreement.
- 15.2 The Agreement may be immediately terminated in whole or in part at any time, in writing, by either party, without any obligation for compensation of loss or damage by the terminating party, and notwithstanding any other rights of the terminating party, in the event of:
 - a) an attributable failure by the other party to perform the Agreement; in the event performance by the other party is not permanently impossible, the right to termination on this ground only exists in the event that the non-performance continues after the reasonable period for fulfillment mentioned in the notice of default of the terminating party has lapsed;
 - b) (provisional) moratorium of payments of the other party;
 - c) Insolvency of, or application for insolvency by, the other party;
 - d) liquidation, dissolution or termination of the company of the other party for any reason other than reconstruction or company merger;
 - e) force majeure for the other party that has already lasted for more than three (3) months.
- 15.3 The Agreement can be immediately terminated in whole or in part at any time, in writing, by DeLokalePlanner, without any obligation for compensation of loss or damage, and notwithstanding any other rights of DeLokalePlanner, in the event Client exceeds a payment term with more than fourteen (14) days.
- 15.4 Provisions that by their nature are meant to continue after the expiration of the Agreement will remain in effect after its expiration.

16 NON SOLICITATION

- 16.1 Client agrees to not solicit, hire or employ, either directly or through a third party, any employee of DeLokalePlanner during the term of the Agreement and for a period of twelve (12) months after expiration thereof.

17 TRANSFER OF RIGHTS AND SUBCONTRACTING

- 17.1 Client may not assign or transfer any of Client's rights or obligations under the Agreement to any third party, whether or not by way of sale of assets, merger or consolidation, without the prior written consent of DeLokalePlanner. DeLokalePlanner shall not withhold this permission on unreasonable grounds.
- 17.2 DeLokalePlanner reserves the right to contract third parties for the performance of the Agreement and/or to transfer its rights and obligations under the Agreement in whole or in part to a third party.

18 APPLICABLE LAW AND DISPUTE RESOLUTION

- 18.1 The Agreement and these general terms and conditions shall be governed by Dutch law.
- 18.2 Any dispute between DeLokalePlanner and Client related to the Agreement or these general terms and conditions shall be referred to the exclusive jurisdiction of the relevant court in Amsterdam in the Netherlands.

19 MISCELLANEOUS

- 19.1 If any provision of the Agreement or these general terms and conditions is found to be invalid, unlawful or unenforceable to any extent, DeLokalePlanner and Client shall negotiate in good faith such amendments that will preserve, as far as possible, the intentions expressed in the Agreement and these general terms and conditions, whereas the other terms of the Agreement and these general terms and conditions shall remain in force.
- 19.2 No delay in or failure by DeLokalePlanner of Client to enforce the observance of the provisions of the Agreement or these general terms and conditions shall be construed to be a waiver of any right under the Agreement or these general terms and conditions. Such waiver shall only be effective if drawn up in writing and signed by an authorized representative of the waiving party.
- 19.3 The relationship between DeLokalePlanner and Client during the term of the Agreement shall be that of independent contractors. Neither party shall have the authority to bind the other party or to assume or create any obligation or responsibility, expressed or implied, on behalf of the other party, without the prior written consent of that party.