



**ANCHORMEN**  
data activators

# GENERAL TERMS AND CONDITIONS

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# Terms and Conditions Anchormen B.V.

## Article 1 Definitions

**Terms and conditions:** the present terms and conditions, regardless of the way in which they are expressed or presented, both on paper as well as electronically.

**Services:** all work and other activities that are the subject of any quotation, offer, agreement or other legal act in the relationship between Anchormen and the Client.

**Anchormen:** Anchormen B.V. registered in the commercial register of the Chamber of Commerce under file number 02070702.

**Agreement:** the agreement between Anchormen and a Client whereby Anchormen provides Services on behalf of the Client.

**Client:** natural or legal person who enters into or has entered into an agreement with Anchormen or on whose behalf the legal act is/was being completed on the basis of which Services will be delivered to that party.

## Article 2 Applicability of terms and conditions

- 2.1 The terms and condition are applicable to and form part of all quotations, offers, agreements and other legal acts, whether oral, written, electronic or in any other form whatsoever, concerning the delivery of Services by Anchormen to or on behalf of the Client.
- 2.2 The terms and conditions also apply equally to Services for which Anchormen either partially or wholly involved the services of third parties, and delivered these, whether or not made use of, to the Client, as well as to the Services for the execution of the quotation, offer, agreement or other legal act commissioned by Anchormen provided by a third party to the Client.
- 2.3 Deviations from these terms and conditions shall only be valid if a prior written agreement is made between Anchormen and the Client.
- 2.4 Anchormen and the Client expressly reject the applicability of any terms and conditions (sales or purchase) of the Client.
- 2.5 If and to the extent that any provision of the terms and conditions is declared invalid or is unenforceable, the remaining provisions of the terms and conditions will remain in force. Anchormen and the Client will, in that case, consult with one another on a new provision to replace the invalid/annulled provision, whereby the purpose of the invalid/annulled provision will be taken into account as much as possible.
- 2.6 Anchormen is authorised at all times to amend these terms and conditions. Amendments will also apply to existing agreements, and are subject to a term of 30 days following written notification of the amendment. Should the Client reject an amendment to these terms and conditions, such Client can terminate the agreement up to and until the date that the new conditions come into force, by this date or on the date of receipt of termination if it is after the date of commencement



of the amendment. In this case, no (partial) restitution will be made for any fee already paid by the Client.

### Article 3 Quotations, offers and agreements

- 3.1 Quotations from Anchormen are valid for the period indicated in the quotation. If no period is specified, the quotation is valid for 2 (two) weeks from the date the quotation was made.
- 3.2 All offers from Anchormen are non-binding, unless explicitly stated otherwise in writing.
- 3.3 Agreements come into being when Anchormen accepts a written assignment issued by the Client, or at the moment that Anchormen commences with the execution of the assignment.
- 3.4 If the assignment (on minor points) deviates from the offer set out in the quotation, Anchormen shall not be bound by it. The agreement will be considered no longer in accordance due to this deviation in the assignment, unless Anchormen indicates otherwise.
- 3.5 For combined offers, Anchormen shall not be obliged to execute a portion of the work against a corresponding portion of the price.
- 3.6 Supplements and amendments to the agreement can only be made in writing.
- 3.7 The agreement for the provision of Services will be entered into for the duration of a project, unless otherwise agreed.
- 3.8 The specified term for the delivery of Services by Anchormen is for guidance only and should not be regarded as definite, unless expressly agreed otherwise in writing.
- 3.9 Without express permission from Anchormen, the Client is prohibited from making known any Anchormen name, names or passwords to third parties.
- 3.10 Anchormen shall not be bound to its quotations or offers should the Client have a reasonable understanding that the quotations or offers or any part thereof contain an obvious error or mistake.

### Article 4 Prices and fees

- 4.1 All prices and fees quoted by Anchormen are in euros, unless expressly stated otherwise in advance in writing.
- 4.2 Anchormen uses standard fees according to a fixed structure. Unless otherwise agreed, these standard fees apply to all work activities.
- 4.3 All prices and fees quoted by Anchormen exclude value added tax (VAT) and exclude any other government levies, charges or taxes, and also exclude administration, and travel and accommodation costs unless explicitly stated otherwise in writing.
- 4.4 Anchormen is entitled at all times to adjust all prices and fees. Announced price changes will come into effect 1 (one) month after the announcement thereof.
- 4.5 Fees are indexed annually at the start of each year and shall be adjusted if Anchormen deems it necessary.
- 4.6 The Client is entitled to terminate the agreement on the date the price change comes into force. Termination must be made by means of a registered letter or an email with confirmation of receipt.



- 4.7 All prices on the website, quotations and other documents from Anchormen are subject to typing and clerical errors.

#### Article 5 Delivery

- 5.1 The specified delivery terms provided by Anchormen are purely indicative. These periods shall not be considered strict deadlines. Anchormen shall make every effort to meet the agreed upon delivery terms as far as possible. Should the stated or specified term be exceeded, Anchormen shall not be considered in default.
- 5.2 Anchormen is not bound to delivery terms whether final or not, which, due to circumstances beyond its control, including circumstances caused by the Client, such as the non-timely submission of relevant information or data, have occurred after entering into the agreement, and can no longer be met.

#### Article 6 Development of software

- 6.1 The parties shall specify in writing which software is to be custom developed, the manner in which this will occur and the requirements that the software must meet. Anchormen will make every effort to deliver the software according to the information provided by the Client. The Client will be responsible for the correctness, completeness and consistency of the information.
- 6.2 Anchormen is entitled, but not obliged, to investigate the correctness, completeness and consistency of the information or specifications provided by the Client, and on discovering any deficiencies to suspend the agreed work activities until the Client has remedied the deficiencies.
- 6.3 Only if and insofar as is explicitly agreed upon in writing, will the software source code and the technical documentation relating to the development of the software, be made available to the Client and the Client authorised to make changes to this software.
- 6.4 Anchormen has the right to make use of open source components. Anchormen shall not be held liable for these components.
- 6.5 Anchormen is authorised to take technical measures to protect the software. The Client is obliged to provide Anchormen with access to the software for this purpose at all times.
- 6.6 Any security measures applied by Anchormen may not be removed, breached or circumvented by or through the Client.

#### Article 7 Additional work

- 7.1 Should the Client, either during the execution of a contract, or during the term of a periodic agreement between Anchormen and the Client, require additional deliverables or modifications, which affect the performance of Anchormen, this will constitute additional work. The Client will be liable to pay for the cost of additional work in accordance with Anchormen's normal hourly fees based on the post calculation of costs. Anchormen is however, not obliged to comply with such a request and may demand that a separate written agreement be concluded for the additional deliverables and amendments.



7.2 The Client agrees that any work or performance, as referred to in paragraph 1, can affect the agreed or expected time of completion of the project and/or the continuity of the services and/or the mutual responsibilities of the Client and Anchormen.

#### Article 8 Prototype

8.1 Should the Client be shown or provided with a prototype, test version, sample or model, then it will be assumed that this was provided or shown as an example only, unless expressly agreed that the product to be delivered will correspond.

8.2 The Client can evaluate the prototype during the testing period; the Client must provide all comments, observations and change requests in writing within 14 days of the testing period unless otherwise agreed.

8.3 Prior to production, reproduction or publication, the Client must review and approve the final version of the Anchormen product or design.

#### Article 9 User right

9.1 The Client is granted a non-exclusive and non-transferrable user right for the software solely related to the agreed requirements for the Client's business or organisation. Notwithstanding the other provisions set out in these terms and conditions, the Client's user right exclusively applies to the right to load and run the software. This non-exclusive user right is granted to the Client on the express condition that the Client pays the agreed fees on time and in full.

9.2 The software may only be used by the Client on the specific number or type of processing units and/or devices for which the user right has been granted. Insofar that nothing has been agreed upon in this regard, the Client's user right shall be deemed to have been provided for the processing units and the number of devices on which the software was used for the first time, and for which case it was connected.

9.3 The Client is not permitted to sell, lease, sub-licence, dispose of or award limited rights to the software or data carriers on which it has been recorded, or to make them available to a third party in any manner or for any purpose whatsoever, including not even if the third party uses the software solely for the Client, unless otherwise agreed in writing. For each violation of this provision, an immediately payable penalty of EURO 5.000,-- will be due to Anchormen by the Client, as well as a further penalty of EURO 500,-- for each day that the violation continues, and without prejudice to the authority of Anchormen to claim compensation for full damages instead of this penalty.

9.4 In the event that the user rights for the software is terminated as described above, the Client shall return all copies of the software in Client's possession to Anchormen forthwith. If the parties have agreed that the Client will destroy any relevant copies at the end of the user right term then the Client will immediately confirm such destruction in writing to Anchormen.



- 9.5 In the absence of the copies and/or confirmation of destruction, the Client will be held liable by Anchormen to pay compensation of a reasonable amount to be determined, as though there were a user right for the previously agreed term between the parties.
- 9.6 All warranty obligations shall lapse if the Client, without prior written consent from Anchormen, has made changes or has had changes made to the software.
- 9.7 The Client shall be responsible for the proper and judicious use or application of the software as well as for monitoring and security procedures and sufficient system management.

#### Article 10 Maintenance

- 10.1 If the Client does not conclude a maintenance contract with Anchormen when entering into an agreement for the further development of the software, then the Client shall have no rights to maintenance.
- 10.2 If the parties have concluded a maintenance agreement, Anchormen will, after written notice of any deficiencies on the part of the Client, endeavour to remedy these deficiencies within the term stated in the maintenance agreement to the best of its ability.
- 10.3 Anchormen is entitled to make use of permanent or temporary solutions, programming workarounds and or problem-avoiding restrictions of its own choosing and to apply them to the software.
- 10.4 Repair of corrupt and/or lost data does not fall under maintenance, nor do defects as a result of alterations to the software by or because of the Client without the prior written consent of Anchormen.

#### Article 11 Payment

- 11.1 The Client must pay the Anchormen invoices within the payment period stated on the relevant invoice. If no payment period is stated on the invoice then a payment period of 14 (fourteen) days will be in force.
- 11.2 In the case that an order is placed, 50% of the agreed total amount must be paid prior to the commencement of work. The remaining amount must be paid in full after acceptance and prior to launching the deliverables.
- 11.3 All payments made by the Client to Anchormen will be deducted from the Client's oldest outstanding invoice, regardless of any other designation by the Client.
- 11.4 Any appeal by the Client for deduction, postponement or offset shall not be permitted.
- 11.5 If the Client fails to pay any invoice within the payment term, the Client shall be considered legally in default, without requiring notice or injunction.
- 11.6 If no payment has been received by the due date, the Client will accrue interest of 2% per month payable on the outstanding amount.
- 11.7 If the Client remains in default for the amount owed, collection fees of €35,- including VAT will be payable by the Client.



- 11.8 In the case of failure to settle, Anchormen will refer the claim to a third party for collection. In this case, the Client will, in addition to the payment of the principal amount, owe the interest due on this amount as well as the collection fees liable for the compensation of all damages suffered by Anchormen, as well as all judicial and extrajudicial costs. The extrajudicial costs will amount to a minimum of 15% of the principal amount, with a minimum of € 200,- excluding VAT.
- 11.9 If the Client is of the opinion that an invoice is incorrect, the Client may file an objection to Anchormen within 14 (fourteen) days of the date of invoice. Upon receipt of an objection, Anchormen will conduct an investigation. For objections not submitted or submitted in a non-timely fashion, the invoicee will be deemed to have been charged the correct amount and this amount to have been accepted by the Client.
- 11.10 Anchormen reserves the right to suspend all and any performances for deliverables by Anchormen until payment has been made in full by the Client for the amount due.

## Article 12 Termination

- 12.1 Anchormen is entitled to terminate the agreement, without providing any reason, with due regard of a notice period of 1 (one) month.
- 12.2 The Client must terminate the agreement in accordance with article 4.6. Anchormen will send confirmation per email of all terminations.
- 12.3 Each party is entitled to terminate the agreement by extrajudicial dissolution if the other party attributable fails in the observance of its essential obligations under the agreement and such failure, after being served with proper written notice of default, does not recover within a reasonable term.
- 12.4 Termination and cancellation does not absolve the Client from any payment obligations related to Services already provided by Anchormen, unless Anchormen is in default with respect to these Services.
- 12.5 Anchormen is entitled to terminate the agreement, without written notice and/or judicial intervention, with immediate effect and without Anchormen being liable for damages to the Client if:
- a. The Client is declared bankrupt, or an application for bankruptcy has been filed;
  - b. Provisional or definitive suspension of payment has been filed or obtained for the Client;
  - c. The Client has lost free disposal over (a portion of) its assets;
  - d. Anchormen has reason to doubt the Client's ability to pay (on time) and to fulfil its obligations under the agreement.

## Article 13 Liability

- 13.1 Anchormen is (partially) dependent for its activities on the cooperation, services and deliveries of third parties, on which Anchormen has little or no influence. Anchormen can consequently not be held liable for any damages arising from the agreement between the Client and Anchormen or the termination thereof, regardless of whether the damage was caused or becomes apparent during



- or after the agreement with Anchormen, unless the damage is intentional or as a result of deliberate recklessness on the part of Anchormen and reduced by the obligations from mandatory legal provisions.
- 13.2 Anchormen shall not be held liable for any other form of damages, including any form of indirect damages including additional compensation, compensation for consequential damages, loss or corruption of data and damages due to loss of profit or sales.
- 13.3 The Client indemnifies Anchormen from all claims for compensation which third parties may make arising in any way whatsoever from the unlawful or improper use by or through the Services provided to the Client by Anchormen.
- 13.4 All liability shall be limited to the amount that the professional liability insurer would pay out for the case in question, increased with the deductible excess, unless this would be considered unacceptable according to the standards of reasonableness and fairness, in which case the liability of Anchormen per event shall be limited to the maximum amount of the price stipulated in the agreement (excluding VAT) to a maximum of EURO 100.000,--.
- 13.5 Any right to compensation is conditional upon the Client reporting the damages to Anchormen as soon as possible after it occurs, in writing
- 13.6 The Client is liable for all damages that Anchormen may suffer as a result of the Client's culpable failure to fulfil any obligations arising from the agreement and these terms and conditions.
- 13.7 Changes to the Client's data must be reported immediately in writing by the Client to Anchormen. Failure to do this shall result in the Client being liable for any damages the Client or Anchormen may suffer as a result.
- 13.8 Anchormen shall not be held liable for intentional or unintentional damages claimed by third parties.
- 13.9 Anchormen shall not be held liable for damages caused by force majeure.

#### Article 14 Complaints & Warranty

- 14.1 Complaints and warranty claims shall only be valid if they are received by Anchormen in writing within 60 (sixty) days of delivery of Services.
- 14.2 The formal notice must be sent by registered mail and contain a detailed description of the deficiency so that Anchormen is able to adequately respond and to investigate the complaint.
- 14.3 The formal notice must include a reasonable period for repair.
- 14.4 The Client may not claim on warranty if the deficiencies are not attributable to Anchormen, which among others includes all accidents, damage, water exposure and short circuits.
- 14.5 The Client shall provide Anchormen with the full cooperation required for investigating the complaint, including allowing Anchormen to launch or to have an investigation launched on site to determine the nature of the complaint, including the quality and/or quantity of the deliverables.
- 14.6 A complaint regarding specific work activities and/or deliverables does not release the Client from any payment obligations with respect to these or any other work activities and/or deliverables.



- 14.7 The Client shall in no event be able to claim dissolution of an agreement by virtue of any complaints or defects, either during or after the warranty period.
- 14.8 If a complaint is justified, Anchormen shall continue to execute the work as set out in the agreement, unless this has become demonstrably meaningless to the Client. In which case this must be communicated by the Client in writing.

#### Article 15 Intellectual property

- 15.1 All intellectual property rights with respect to the Services, as well as the designs, software, documentation and all other materials being developed and/or used for the preparation or execution of the agreement between Anchormen and the Client, or derived therefrom reside exclusively with Anchormen or its suppliers. The delivery of Services shall never extend to the transfer of intellectual property rights.
- 15.2 The Client shall not be permitted to modify or remove any indications relating to the confidential nature, whether copyrights, trademarks, trade names or any other rights of intellectual property from the software, websites, databases, equipment or material.
- 15.3 The Client shall not in way whatsoever, either in whole or in part, disclose, reproduce or make available to third parties the Services without prior written permission from Anchormen, except for those cases where permission is within the scope of the Service.
- 15.4 Anchormen is permitted to take technical measures to protect the software. If Anchormen has secured the software by means of technical protection, the Client is not permitted to break through, remove and/or circumvent this security.
- 15.5 The Client shall be given a non-exclusive and non-transferrable user right for the Services solely related to the agreed objectives. The Client, in using the Services, shall strictly adhere to the conditions laid out in the terms and conditions or otherwise imposed on the Client.
- 15.6 For each violation of this provision, an immediately payable penalty of EURO 5.000,-- shall be owed by the Client to Anchormen, to be increased by EURO 500,-- for each day that the violation continues, and without prejudice to the authority of Anchormen to claim compensation for full damages instead of this penalty.

#### Article 16 Personnel

- 16.1 The Client shall provide Anchormen employees, who are conducting work activities on the Client's premises for the provision of Services, all the necessary support in order for them to execute their activities.
- 15.7 As long as a relationship is in existence between the Client and Anchormen, and for one year after it has concluded, the Client is not permitted to hire an Anchormen employee or otherwise, either directly or indirectly, have them do work, without prior written permission from Anchormen. Among Anchormen employees in this respect are persons who are in the employ of Anchormen, or no longer than 6 (six) months previously were in the employ of Anchormen or of one of Anchormen affiliates. For each violation of this provision, an immediately payable penalty of EURO



5.000,-- shall be owed by the Client to Anchormen, to be increased by EURO 500,-- for each day that the violation continues, and without prejudice to the authority of Anchormen to claim compensation for full damages instead of this penalty.

#### Article 17 Disputes

- 17.1 The agreements between the supplier and the Client shall be governed by Dutch law. The applicability of the 1980 Vienna Sales Convention shall be excluded.
- 17.2 Disputes that may arise between the supplier and the Client following an agreement between the supplier and Client or as a result of further agreements which have arisen as a consequence, shall be settled through arbitration in accordance with the Arbitration Laws of the Foundation for the Resolution of IT Disputes in The Hague, without prejudice to the rights of the parties to request a provision in arbitral proceedings and without prejudice to the rights of the parties to take precautionary legal measures.
- 17.3 In order to attempt an amicable resolution of an existing or possible future dispute, either party may initiate IT mediation pursuant to the IT mediation rules of the Foundation for the Resolution of IT Disputes in The Hague. IT mediation pursuant to these regulations is aimed at mediation by one or more mediators. This process does not lead to a binding judgement for the parties. Participation in this process is on a voluntary basis. The provisions in this article shall not preclude that should a party wish it, such party may disregard the IT mediation process and immediately pursue the dispute settlement mentioned in article 17.2.