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## **TERMS AND CONDITIONS**

### **1. Definition**

1.1 Client: the person or legal entity with whom the agreement has closed with MPKC, for the supply of products and services.

### **2. Products and services of MPKC:**

2.1 The websites, products and services that is offered by MPKC where the client has access to all the information, and can use all forms of communication between users; this includes, but not limited to the production, placing and renting the websites, paying a fee for registration of a domain, promotion of a website, DSL services and all other additional and supporting products and services.

### **3. Agreement**

3.1 Any mutual acceptance, verbal, in writing, by fax, confirmed by e-mail, or through the order form on the website when ordered one or more products or services of MPKC.

### **4. Relevance/pertinence**

4.1 Insofar as a mutual agreement between the parties is not waived in writing, the following articles shall apply to any offer, order and/or agreement from or with MPKC of any kind, whether products, goods and/or services not specifically described in these terms and conditions.

4.2 The terms and conditions of the client or third parties are not binding to MPKC and are not applicable/does not apply.

### **5. Offer and acceptance**

5.1 All tenders and quotes by or on behalf of MPKC are without an obligation to buy, unless stated otherwise in writing or per email.

5.2 An offer or quote made by MPKC has a validity of 10 days, unless stated otherwise.

### **6. Start of the agreement**

6.1.A An agreement is concluded at the time, when one or more of the following conditions is fulfilled:

- the offer, (online) order- or contract form is completed and/or signed by client.
- the offer, (online) order- or contract form is received and approved by MPKC,
- when ordering via the website of MPKC, your IP number is your digital signature,
- assignments that has an urgency. A verbal agreement made in person, or an agreement made via telephone will also be accepted.

6.1.B An order is always final and irrevocable, except when article 14.5 applies. When cancelling an order the client will be charged a cancellation fee.

6.1.C MPKC must honour their obligations if all necessary papers, as well as the agreed fee is in possession of MPKC and/or is deposited on the bank account of MPKC.

6.2 When renting a domain, the startup fee, the first annual fee and all other agreed fees has to be deposited on the bank account of MPKC. When the registration of a domain name has a Dutch

extension, the client also has to forward all the necessary documents required for the 'Stichting Internet Domeinregistratie Nederland' (SIDN) to MPKC.

6.3 MPKC is free to prove the conclusion of the agreement with other resources.

6.4 Additions and amendments in an agreement may only be made in writing.

## **7. Duration and termination**

7.1 The agreement is being established for an unlimited period of time with a minimum of 12 months. And will be tacitly renewed for 12 months unless agreed otherwise, i.e. when there is a reason to terminate the agreement. With an all-in package being established, the agreement has a minimum term of 24 months, unless agreed otherwise or when it is justified to terminate the agreement.

7.2 The agreement can only be terminated in writing by the end of every calendar month and after the expiration of the minimum duration of the contract, subject to a notice period of two months.

7.3 Billing occurs once per annum, where a part of a year is considered as a full year. And/or when a part of a month is considered as an entire month, unless agreed otherwise.

7.4 MPKC can terminate the agreement with immediate effect, when the client doesn't comply properly or violate one or more of his obligations towards MPKC.

7.5 MPKC has the right to terminate the agreement with immediate effect without notice or judicial intervention when the client has been declared bankrupt, has requested suspension of payment, or has lost the control of his assets otherwise. The client is not entitled to any compensation.

7.6 Without prejudice to article 19, MPKC has the right to terminate the agreement with immediate effect without notice or judicial intervention, when:

- the client makes improper use of the internet;
- client spreads information that is in breach of (inter)national laws and regulations;
- client spreads information that is in breach with the generally accepted norms and values;
- client spreads information that is discriminating towards appearance, race, religion, gender, culture, origin or otherwise can be called offensive;
- client places so-called adult pages, (illegal) warez or mp3s;
- client send spam mail without consent;
- client runs severely onerous (background) processes such as 'egg-drops' on the server;
- client places adult/warez/mp3's/webcams and or other offensive pages on the server;
- sending or offering spam mail.

Abuse will automatically mean that the involving accounts will be removed from the server without prior notice and without the right to any form of compensation and/or refund in any way whatsoever. If you believe such activities take place and/or sites which are mentioned above are on the server, you can send an email to: [abuse@MPKC.nl](mailto:abuse@MPKC.nl)

## **8. Duration and lead-time**

8.1 Placement of a website is done as soon as possible after MPKC has received a signed/written agreement, deposit and delivery of information and promotion materials. Or the website will be placed when a later point in time is agreed.

8.2 If the agreed lead-time threatens to be exceeded, this will be communicated as soon as possible. In case of force majeure on the side of MPKC the term will be extended with the time that is necessary. When the lead-time is exceeded excessively this can be considered as a ground for termination of the agreement.

8.3 Upon application, registration or transfer of a domain, you should take into account with a covering period of several weeks. Relocation of your domain name can take longer, depending on circumstances and third parties.

8.4 By requesting the token code that belongs with the domain name, it is assumed that domain is moving to another server. And the move will be processed and executed in our system immediately. From the moment the token code is requested, the client has six weeks to move the domain. Moving a domain within that time is not a responsibility of MPKC. Therefore MPKC cannot be held responsible if the move is not being done within the time span of six weeks. A result of not moving the domain in time, the domain name will be put in quarantine. If the client wants to reverse this, extra fees will be charged.

## **9. Force majeure**

9.1 Regarding to the agreement, force majeure means what is being understood in law and jurisprudence.

9.2 MPKC is not required to her obligations as stated in the agreement, when it is impossible to comply due to force majeure, the agreement will be terminated.

## **10. Data/e-mail traffic**

10.1 The data/e-mail traffic is indicated on the package you ordered. We inform the client if there is excessive use and MPKC gives the client an opportunity to pay a premium when using excessive data/e-mail traffic. When the owner of the website doesn't agree to pay the premium, he has the opportunity to 12 hours after the notice, to move the website to another server and remove from the servers from or related to MPKC. When the client doesn't respond, MPKC is entitled without any further notice, to remove the website from its servers. The client isn't entitled to any form of claims or damages whatsoever.

## **11. MPKC Webdesign and MPKC Maritime**

11.1 MPKC Webdesign and MPKC Maritime is a part of MPKC.

11.2 MPKC webdesign and MPKC Maritime has the right to outsource to third parties in relation to creating, modifying or updating websites, if she thinks it is appropriate.

11.3 MPKC webdesign and MPKC Maritime is not obligated to notify or inform the client on changes on webdesign, as long as the client is affected a little or not at all with the changes.

## **12. Outsourcing and changing**

12.1 MPKC is free, for whatever reason, to temporarily or otherwise, one or several of its products or services to outsource to third parties, if this is considered necessary.

12.2 MPKC is free to make changes, for whatever reason, on its offered service whatsoever.

12.3 MPKC is not obliged to inform or notify the client, regarding the changes of its service, as long as the client is affected a little or doesn't experience any discomfort at all.

## **13. Hosting**

13.1 MPKC can with its virtual domain hosting packages' use the third-party servers. Client is intended to comply at any time to the general terms and conditions of the respective companies. On request, MPKC will give the general terms and conditions of the third parties to the client free of charge.

13.2 Unless agreed otherwise, filed in duplicate, the domain names remain property of MPKC that are registered by MPKC (i.e. this is the case with personal .nl domain names and are registered on behalf of MPKC, which licence is given by MPKC to get used by client).

13.3 Client is entitled at all times to move the domain name to a third party server, provided that he has paid all instalments and administration costs (large min. 50,- excl. VAT) into the bankaccount of MPKC. If this is the case, MPKC is obliged to cooperate with the client with the move or transfer of ownership of the domain name.

13.4 In case of removal or transfer of ownership of one or more domain names of the client, the client has to take care of all administrative, legal and other actions that are necessary for this. Also the client has to pay the costs resulting or relating to the transfer. MPKC can never, in any manner be liable for any costs whatsoever, related to the relocation or change of ownership of the domain name.

13.5 MPKC is not required to give support or to provide additional services on its 'virtual domain hosting packages'.

13.6 MPKC is free to make changes, for whatever reason, regarding web hosting. When engaging on a service level agreement, the client is obliged to pay the monthly invoices in time sent by MPKC. A service level agreement is being established for at least 12 months with tacit agreement. Failure in paying MPKC in time, can result in immediate termination of the service and agreement.

13.7 MPKC is not obliged to notify or inform the client on changes on webdesign, as long as the client is affected a little or not at all with the changes.

13.8 Sending unsolicited email messages (known as "spamming") isn't allowed and is a valid reason for MPKC to terminate the agreement with the client immediately. The client has no right to any compensation whatsoever. All spam can be reported to [abuse@mpkc.nl](mailto:abuse@mpkc.nl).

13.9 (Illegal) warez, mp3's, webcams, adult sites etc. are not allowed and is a valid reason for MPKC to terminate the agreement with client with immediate effect. The client has no right to any compensation whatsoever.

#### **14. Updates**

14.1 Updates means the adjusting- and/or complement existing webpages within your website maintained by MPKC and within reasonable limits. If an update requires an extraordinary amount of time, MPKC will charge a fee. This is in reasonable and fair assessment of MPKC.

14.2 Updates should be delivered digitally, per CD/DVD or by e-mail ([support@mpkc.nl](mailto:support@mpkc.nl)). If it can't be delivered digitally, MPKC can charge an additional fee.

#### **15. Prices**

15.1 All referred rates, and otherwise agreed rates are exclusive of VAT (turnover tax), and any other government levies, unless explicitly stated otherwise or agreed with client.

15.2 MPKC has the right to change rates. These modifications will be made known to the client at least two months before the rates commence. Client is entitled to terminate the agreement before the change of the rates takes place.

#### **16. Payment terms**

16.1 The payment obligation of the client commences on the first day the agreement is concluded. The payment covers the period beginning on the day of actual use of the products and services of MPKC, to the extent within the responsibility MPKC has, with the exception of force majeure.

16.2 The relevant payable rates that is agreed, is exclusive of VAT and any other government levies. Furthermore client is due to pay the fees that arise from these terms and conditions.

16.3 The charges, depending on the term of the agreement, must be paid by advanced payment, and has to be paid before term starts by direct debit, check or invoice. If not paid in time, MPKC has the right to (temporarily) shut down the presentation (see article 19). The fee for other costs has to be paid in advance per month or year.

16.4 Before the works commence MPKC will send the client an invoice with a minimum of 40% of the agreed fee as a deposit for the tasks that has to be performed. This must be paid within five days after start date of the invoice, unless agreed otherwise.

16.5 When MPKC has to purchase i.e. hardware and software for the client, MPKC will ask for an advance payment of at least 90% (excl. of VAT) of the invoice. This amount has to be paid before the order will be placed.

16.6 The cancellation costs per assignment is a minimum of 25% (excl. of VAT) from the agreed invoice amount of this contract including any agreed discounts or reductions of the invoice, plus costs incurred for that job. This is exclusive in all fairness assessed by MPKC. A cancellation must be received within 48 hours, in writing (or email), included with a signature.

16.7 MPKC sends the client an invoice per payment term for the costs associated with the contract. Invoice is to be paid within 5 days after the invoice date citing the invoice number.

16.8 If the client hasn't paid in time, this will be communicated to the client and establish a payment term. When the invoice isn't paid within the agreed payment term, then the client is without any further notice in default (see article 19).

16.9 If the client has the opinion that the charged fee is incorrect, the client can objective within 5 days they received the invoice. Upon receipt, MPKC will investigate the accuracy of the invoice amount.

16.10 Payment of the outstanding charges can be made via direct debit, which the client has received the details at the start of the agreement or later in time.

16.11 In case of a direct debit, client must always ensure he has sufficient funds in his account at time of payment.

16.12 Client is in default from the moment when the outstanding fee cannot be collected or paid.

16.13 When the outstanding fees cannot be collected or received, MPKC will charge interest which is equal tot the statutory rate, which will be due from the moment that client is in default until the moment of payment.

16.14 When MPKC accidentally collects a higher amount, then MPKC will return the excess amount paid at first request of MPKC. All this plus statutory interest from the day of collection to those in which the said amount will be returned.

16.15 All the payments from client to MPKC must be paid within 5 days on the bank account of MPKC.

16.16 If the client fails to pay the amounts due to MPKC, can and will give the claim out of hands, which the client will be obliged to full compensation for extrajudicial and judicial costs.

## **17. Intellectual property rights**

17.1 Client is allowed to use and download the existing software on the MPKC site that is free of (intellectual) property rights or are explicitly not exercised (so called freeware).

17.2 Client should respect the intellectual property rights in respect of protected software and/or other works (i.e. so called "shareware") and indemnifies MPKC of any claim.

## **18. Reservation of title**

18.1 All material produced by MPKC is and remains the property of MPKC unless it is in writing agreed otherwise. With an all-in package the copyright and ownership of the website remains with MPKC, this is not the property of the client, unless agreed in writing. This also applies for any designs, logo's, slogans, advertising, television commercials and databases.

## **19. Responsibility and indemnification**

19.1 MPKC depends in its activities on the cooperation, services and supplies of third parties, where MPKC has little or no influence on. Therefore MPKC cannot be held responsible for any damages whatsoever arising from using the products or third parties with MPKC or terminating the agreement whether the damage occurs or is visible during the time with MPKC.

19.2 In case of culpable failure to fulfil the contract, MPKC is only liable for compensatory damages, ie. compensation of the value of the omitted performance. Any liability of MPKC from any other form of damage is excluded, including additional compensation in any form, compensation for indirect or consequential damages or damages for lost turnover or profit.

19.3 Client indemnifies MPKC for any claims for damages by third parties, in respect of damages in any way arising from the unlawful or careless use of the products en services delivered by MPKC to client.

19.4 Any liability of MPKC is limited to the amount the professional liability insurer of MPKC actually pays out, plus the amount of the own risk according to the policy of the insurer of MPKC. Upon request, client can be provided with information about the professional liability insurance.

19.5 If and to the extent that -for any reason whatsoever- the insurance doesn't cover the damage, the liability for the total damage that is associated with the work MPKC carried out (including omission) is limited to the amount the client paid for the work before the damage occurred.

19.6 All claims (claim rights, other rights, powers, or any other claim in any context) against MPKC expire in any event if they are not submitted to MPKC within one year after the date on which the person became aware or could know of the existence of the reported claims. This limitation of liability of this article also applies when MPKC has (wrongly) refused an assignment and therefore caused damage, which is a direct consequence of the act(s) of MPKC.

19.7 When engaging third parties MPKC will always exercise due diligence. However MPKC is not liable for any shortcomings of these third parties.

19.8 Client indemnifies MPKC for claims (of third parties) for damages caused by or will be caused by the fact the client has provided MPKC incorrect or incomplete information.

19.9 Client indemnifies MPKC for any claims by third parties who in relation to the implementation of the agreement suffer damage and the cause of which is other than those attributable to MPKC. If MPKC is addressed by third parties, the client has to assist MPKC both outside and in law and to do for him in what will be expected from him. If client fails to take adequate measures, MPKC is entitled in doing so without notice.

19.10 Seen on the internet large numbers of nodes with human intervention, the use of local networks and wireless communication, one must take into account that the information obtained or sent via the Internet is freely accessible. MPKC cannot be held liable for any damage whatsoever caused by sending confidential or secret information. MPKC is not liable for security of data stored or abuse by third parties.

19.11 MPKC is not held responsible or liable for the promotional content provided by client.

19.12 Client is responsible for all damages MPKC might suffer as a result of a deficiency attributable tot the client in the fulfilment of the obligations arising from the agreement and these terms and conditions.

19.13 Changes in information of the client should immediately be communicated in writing to MPKC. if the client fails in doing so, the client is liable for any damage MPKC suffers as a result of it.

19.14 MPKC is never liable for any data loss caused by fire, damage or hard disk failure. MPKC uses the latest backup facilities but can never guarantee any damage.

19.15 Courtesy activities may never be any obligation whatsoever with respect of MPKC and were done solely and entirely at the risk of the client.

19.16 MPKC and client must respect both to secrecy regarding any information provided by both parties.

## **20. Transfer of rights and obligations**

20.1 Parties are not entitled to transfer the rights or obligations from the agreement to third parties, without prior written consent of the other party with exception of the General Terms and Conditions of MPKC.

## **21. Decommissioning**

21.1 MPKC has the right to (temporarily) restrict or make their products and services unavailable if the client fails to comply to the agreement with MPKC or is acting in breach with these Terms and Conditions. MPKC will notify client, via e-mail, telephone or in writing, unless this in all fairness

cannot be asked from MPKC. The obligation to pay the remaining fee remains during decommissioning.

21.2 The service will be continued when the client has fulfilled its obligations within a period specified by MPKC and has met an appropriately fixed amount for placing of service, large minimum of € 250,00 excl. of VAT.

21.3 MPKC has the right to temporarily provide any services and/or products, if maintenance work makes this necessary. The suspension of services and/or the temporary decommissioning of products can in no way lead to liability by client as possible damages, direct or indirect, of any nature whatsoever.

## **22. Reclame**

22.1 Client must in respect of noticing visible defects lodge a complaint within 8 days after delivery. Failing in doing this on time, any claim expires towards MPKC.

22.2 Lodging a complaint concerning hidden defects must be send in writing within 8 days after the defect is detected or could have been diagnosed or should have been discovered. If this doesn't happen, then any claim expires towards MPKC.

22.3 When the complaint is founded, the delivered services or goods will be adjusted, replaced or refunded.

22.4 Reclame does not suspend the obligations of the client.

## **23. Modification of the terms and conditions**

23.1 MPKC reserves the right at all times to supplement or amend these terms and conditions.

23.2 Changes also apply to existing agreements, subject to a period of 30 days.

23.3 Client must prepare to be informed or to inform about changes and additions made regarding the articles described within the terms and conditions.

23.4 If the client does not want to accept a change in these terms and conditions, the client can terminate the agreement by this date or on the date of receipt of the notice, if this is after the date the terms and conditions have changed.

## **24. Returns**

24.1 Without prior written permission MPKC is never required to accept any returns from the client.

24.2 By accepting a return MPKC doesn't acknowledges the client specified grounds for returning the goods. The risk of returned goods remains with the client.

## **25. Confidentiality, security and privacy**

25.1 Client warrants that all received information from MPKC (before and after entering the agreement) will remain secret, unless MPKC has indicated that the information provided is confidential.

25.2 MPKC performs a strict privacy policy, which means that the data of the client are not supplied by us to third parties unless the client has given permission to MPKC or an authorized officer can show a court order to inspect data from the client.

25.3 Client and MPKC are relative to one another that legislation relating to the processed data, as included, in particular the rules laid down to the 'Wet Persoonsregistratie' (Data Protection Act), are complied with, as well client as MPKC will carry out adequate protection of data processing registration.

25.4 Client will indemnify MPKC for all claims of third parties that may be imposed for breach of the Data Protection Act.

25.5 These terms and conditions may not be duplicated without written permission of MPKC.

25.6 On all offers, quotes and bills these terms and conditions are applicable.

## **26. Delivery, installation and acceptance**

26.1 Unless agreed verbally, via email or written, MPKC will install or have the equipment installed.

26.2 Unless client doesn't have the equipment installed by a space managed by MPKC, client will make a space available where all necessary facilities, such as calling and telecommunications can be installed.

26.3 Client will give MPKC or companies acting on behalf of MPKC give unimpeded access to the space available to execute the necessary work of the installation during the working hours of MPKC or companies acting on behalf of MPKC.

## **27. Sale an/or rental of equipment**

27.1 Supply and/or rental of the equipment is done at the agreed place of delivery and/or hire within the Netherlands, at the negotiated rates.

27.2 In case of supply and/or rental of the equipment, MPKC will notify the client in time of the delivery, to the extent this is required of MPKC (within reason). MPKC will give the date and time when the equipment will be delivered as well made available. Client must ensure that the equipment is accepted at the date and time that is agreed.

## **28. Warranty**

28.1 During a period of 30 days after being made available MPKC will to best effort possible repair the material and manufacturing defects in the supplied by MPKC. Equipment as well as in the parts delivered by MPKC are under warranty, maintenance or repair if described in detail within this period at MPKC have been reported by client. All replaced parts are hereby owned MPKC. The warranty obligation is void if these errors are caused wholly or partly incorrect, careless or improper use, external causes, or external factors such as fire or water damage, or if the client without permission from MPKC made changes in the equipment or components by who were delivered by under warranty or maintenance.

28.2 Work and repair costs falling outside the scope of warranty will be charged by MPKC in accordance with the usual rates.

28.3 Unless there is agreed otherwise in writing, MPKC is not responsible for the accuracy and completeness of the results of services relating to computer services, automatic information processing and/or editing data using by MPKC managed software and/or equipment.

## **29. Dispute settlement system and governing law**

29.1 If a court order declares one or more articles of these conditions to be invalid, the other articles of these terms and conditions will remain in force, and MPKC and client shall negotiate new rules to replace the invalid or void provisions, as far as possible the purpose and intent of the invalid or void provisions to be respected.

29.2 This contract is exclusively governed by Dutch law.