

ITHAX GENERAL TERMS AND CONDITIONS

These are the General Terms and Conditions of ITHAX B.V. (hereinafter referred to as "ITHAX"), a company with the address Nieuwe Kazernelaan 2 – D85-23 in Ede. ITHAX is registered with the Chamber of Commerce under number 91824249.

Definitions

In these Terms and Conditions, the following terms have the following meanings, unless expressly stated otherwise:

Terms and Conditions: these general terms and conditions as stated below.

Company: the Other Party acting in the course of a business or profession.

BW: the Civil Code.

Assignment: All work, in whatever form, that ITHAX performs for or on behalf of the Other Party.

Distance services: an agreement concluded between ITHAX and the Other Party within the framework of an organised system for distance services in which, up to and including the conclusion of the agreement, one or more techniques for distance communication are used exclusively or partly;

Service: All work, in whatever form, that ITHAX performs for or on behalf of the Other Party.

Distance services: an agreement concluded between ITHAX and the Other Party within the framework of an organised system for distance services in which, up to and including the conclusion of the agreement, one or more techniques for distance communication are used exclusively or partly;

Distance selling: an agreement concluded between ITHAX and the Other Party within the framework of an organised distance selling system in which, up to and including the conclusion of the agreement, one or more techniques for distance communication are used exclusively or partly;

Agreement: Any agreement entered into between ITHAX and the Other Party.

Product: All matters that are the subject of an Agreement.

Other Party: the Company that has accepted these General Terms and Conditions and has instructed the performance of an Assignment.

Unless the General Terms and Conditions expressly provide otherwise, the interpretation of the General Terms and Conditions shall be deemed to include the plural and vice versa and a reference to a masculine form shall be deemed to include a reference to a feminine form and vice versa.

1. Applicability

1. These General Terms and Conditions apply to every offer, quotation and Agreement concluded between ITHAX and the Other Party, unless the parties have expressly deviated from these General Terms and Conditions in writing.
2. These General Terms and Conditions also apply to agreements with ITHAX, for the execution of which third parties must be involved.
3. The applicability of the other party's general terms and conditions is expressly rejected.
4. Deviations from the Agreement and General Terms and Conditions are only valid if they have been expressly agreed in writing between the parties.

2. Quotations and/or offers

1. All offers and/or offers that do not explicitly state otherwise are considered to be non-binding offers and can be revoked at any time, even if they contain a period for acceptance. Offers or quotations can also be revoked in writing by ITHAX immediately after receipt of acceptance, but no later than two working days, in which case no agreement has been concluded between the parties.
2. All quotes and/or offers from ITHAX are valid for 30 days, unless otherwise stated.
3. ITHAX cannot be held to its quotations and/or offers if the Other Party should have understood, on the basis of reasonableness and fairness and common views in society, that the quotation and/or offer or part thereof contains an obvious mistake or clerical error.
4. If the acceptance, whether or not on minor points, deviates from the offer included in the quotation and/or offer, ITHAX is not bound by it. In that case, the Agreement will not be concluded in accordance with this deviating acceptance, unless ITHAX indicates otherwise.

3. Formation of the agreement

1. The Agreement is concluded by acceptance by the Other Party of the quotation and/or offer of ITHAX.
2. Quotations and/or offers can only be accepted in writing (including by electronic means).
3. At the moment that ITHAX receives an order confirmation from the Other Party, an Agreement is concluded between the parties, or at the moment that ITHAX actually starts with the performance.

4. A registration for activities organized by ITHAX via the website, by email or otherwise, will also be considered as an order confirmation
5. The Agreement supersedes and replaces all previous proposals, correspondence, agreements or other communications, whether made in writing or orally.
6. Subscription services are tacitly renewed annually unless cancelled in writing, with due observance of a notice period of 3 months, unless otherwise agreed.
7. If the Other Party requires manual renewal, ITHAX is entitled to charge an additional 2% of the applicable subscription rate.

4. Execution of the agreement

1. The Agreement shall be performed by ITHAX to the best of its knowledge and ability, in accordance with the requirements of good workmanship. The application of Sections 7:404, 7:407(2) and 7:409 of the Dutch Civil Code is expressly excluded.
2. Unless explicitly agreed otherwise in advance, services are performed by ITHAX under a best-efforts obligation. This means that ITHAX will make the effort stipulated in the agreement, but that ITHAX does not guarantee the end result to be achieved.
3. ITHAX determines the manner in which and by which person(s) the Assignment is performed. ITHAX is entitled to have certain activities carried out by third parties.
4. ITHAX is entitled to execute the Agreement in phases. If the Agreement is executed in phases, ITHAX has the right to invoice each executed part separately. If and as long as this invoice is not paid by the Other Party, ITHAX is not obliged to carry out the next phase and has the right to suspend the Agreement.
5. The calculation of the deployment of ITHAX employees also includes the time required for reporting, administration, internal consultations and other activities that are necessary for the effective execution of the assignment.
6. Appointments for services or training courses can be cancelled or rescheduled by the Other Party free of charge up to five working days before the agreed date(s). In case of cancellation or rescheduling within five working days, 50 percent of the quoted costs will be charged. In case of cancellation or rescheduling on the day of commencement, or in case of non-appearance, ITHAX will charge the quoted costs in full. If the participant is unable to attend a training course, it is permitted to send a replacement.

5. Software as a Service

1. If you purchase Software-as-a-Service (SaaS) from ITHAX, the right to use it is limited to your own organization. You are not free to make the environment available to third parties, unless explicitly agreed otherwise in writing.
2. ITHAX may make changes to the SaaS service. If such changes are substantial and have consequences for the operation and/or procedures applicable to the customer, we will inform you as soon as possible. To the extent that there are costs involved in the change on your side, these costs will be borne by you. In that case, you are entitled to terminate the agreement in writing with effect from the period on which the amendment takes effect, unless the amendment is related to relevant legislation or other regulations issued by competent authorities or ITHAX bears the costs.
3. ITHAX may temporarily retire all or part of the SaaS Service for preventive, corrective or adaptive maintenance or other forms of service. ITHAX will not allow the shutdown to last longer than necessary and, if possible, to take place at times when the SaaS service is typically least used.
4. ITHAX does not warrant that SaaS services provided will be free of defects and will function without interruptions. ITHAX will use its best efforts to identify and, where possible, correct errors in underlying software within a reasonable period of time, insofar as the relevant errors have been reported in writing to ITHAX by you in detail. ITHAX may, where appropriate, postpone the correction of the errors until a new release of the underlying software is put into operation.
5. If the defect found relates to customization that has been developed for you, ITHAX is entitled to charge an additional fee for the repair thereof.
6. ITHAX is never obliged to restore mutilated or lost data other than to restore – if possible – the last available backup of the data in question.

6. Changes and additional work

1. ITHAX develops tailor-made solutions based on the specifications established at the start of the agreement, or which are determined in consultation during the term of the agreement.
2. In the case of 'fixed scope' customisation, deviations from previously laid down specifications will be recorded in writing after mutual consultation. If these deviations lead to additional work, ITHAX is entitled to charge an additional fee for this.
3. If an iterative (agile) development method is used, the parties accept that the specifications are not fully developed at the outset and that they can be adjusted in mutual consultation during the execution of the assignment. ITHAX will periodically present the progress made to date and the efforts made to this end to you by means of so-called 'sprint reviews'. Based on advancing insight, specifications can be supplemented or adjusted. In doing so, you accept the risk that the customization does not necessarily meet all specifications.
4. In the case of the development of customisation, it must be specified in advance on which platform(s) the customised work must function. ITHAX does not guarantee that the developed customization will work well in conjunction with all types or new versions of web browsers and any other software and/or websites
5. If, during the execution of the Agreement, it appears that it is necessary to amend or supplement the Agreement for proper performance, ITHAX will inform the Other Party of this as soon as possible. The parties will then amend the Agreement in a timely manner and in mutual consultation.
6. If the parties agree that the Agreement will be amended/supplemented, the time of completion of the performance may be affected by this. ITHAX will inform the Other Party of this as soon as possible.
7. If the amendment to or addition to the Agreement will have financial, quantitative and/or qualitative consequences, ITHAX will inform the Other Party of this in advance.
8. If a fixed rate or fixed price has been agreed, ITHAX will indicate the extent to which the amendment/addition to the Agreement affects the rate/price. ITHAX will try to provide a quotation in advance as far as possible.
9. ITHAX will not be able to charge additional costs if the change/addition is the result of circumstances attributable to ITHAX.
10. Changes to the originally concluded Agreement between the parties are only valid from the moment that these changes have been accepted by both parties by means of a supplementary or amended Agreement.
11. Unless otherwise agreed, ITHAX is not obliged to transfer the source code of the developed custom work and any associated documentation to you.

7. Obligations of the other party

1. The Other Party shall ensure that all data, instructions, materials and/or equipment that ITHAX indicates are necessary or that the Other Party should reasonably understand are necessary for the execution of the Agreement, are available in a timely manner. In addition, the Other Party must grant ITHAX access and all powers and authorizations necessary to properly execute the Assignment.
2. The Other Party is responsible for (the use of) the hardware and software in its organisation, as well as for the control and security procedures and adequate system management.
3. If it has been agreed that the Other Party will make software, materials or data available on data carriers, these will comply with the specifications necessary for the performance of the work.
4. ITHAX shall not be liable for damage of any nature whatsoever as a result of ITHAX relying on incorrect and/or incomplete information provided by the Other Party, unless this inaccuracy or incompleteness should have been known to ITHAX.
5. If the materials provided by the Other Party are protected by the intellectual property, the Other Party guarantees that it has the required licenses.
6. The Other Party must refrain from conduct that makes it impossible for ITHAX to properly perform the Assignment.
7. If work is carried out by ITHAX or third parties engaged by ITHAX in the context of the Assignment at the location of the Other Party or a location designated by the Other Party, the Other Party shall provide the facilities reasonably required free of charge.
8. If the Other Party has not fulfilled its obligations as set out in this article, ITHAX shall be entitled to suspend the performance of the Agreement and/or to charge the Other Party the additional costs arising from the delay in accordance with the usual price or rates.

8. Hosting Provider

1. ITHAX does not have its own hosting available. ITHAX engages a third party for the hosting. ITHAX acts as a reseller here.
2. Warranty regarding the hosting is provided by the hosting provider. ITHAX does not provide any warranty with regard to hosting.
3. ITHAX is in no way liable and responsible for damages caused by shortcomings of the third parties engaged by ITHAX.
4. If the hosting provider has set a data traffic limit, ITHAX will make this known at the start of the Agreement. If this limit is exceeded, ITHAX has the right to charge an additional fee.

9. Contents

1. ITHAX is not responsible for the content and information of the Other Party's website, application or other materials, software and/or accounts.
2. ITHAX has the right to suspend and/or remove the website, application or other material, software and/or accounts if the content:
 - a. has a violent character or refers to a location with violent content;
 - b. Discriminate against;
 - c. incites, conducts, promotes or promotes illegal activities;
 - d. violates any law;
 - e. has been hacked or is being hacked.
3. ITHAX shall never be liable for damages resulting from the website, application or other material, software and/or accounts of the Other Party containing unlawful content, unless ITHAX was aware of this content.

10. Transfer of risk

1. The Products that are the subject of the Agreement are at the expense and risk of ITHAX until the time the Products are made available to the Other Party as a Company.
2. The risk of loss, damage or depreciation of Products that are the subject of the Agreement shall be transferred to the Other Party as Business at the time when Products are available to the Other Party or a third party to be designated by the Other Party.

11. Praise

1. Unless expressly agreed otherwise in writing, the prices and rates indicated by ITHAX are always exclusive of VAT.
2. The prices and rates include shipping, travel and other expenses, unless otherwise agreed.
3. If a rate has not been expressly agreed, the rate will be determined on the basis of the hours actually spent and the usual rates of ITHAX.
4. ITHAX will provide the Other Party with a statement of all additional costs in good time before the conclusion of the Agreement or provide information on the basis of which these costs can be passed on to the Other Party.
5. In the event that ITHAX intends to change the price or tariff, it shall notify the Other Party as soon as possible.
6. If the increase in the price or rate takes place within three months after the conclusion of the Agreement, the Other Party may dissolve the Agreement by means of a written statement, unless:
 - a. the increase arises from a power or an obligation incumbent on ITHAX under the law;
 - b. the increase is caused by an increase in the price of raw materials, taxes, production costs, currency exchange rates, wages, etc., or on other grounds that were not reasonably foreseeable at the time of entering into the Agreement;
 - c. ITHAX is still willing to perform the Agreement on the basis of the originally agreed; or
 - d. stipulated that the performance will be carried out for more than three months after the conclusion of the Agreement.

12. Payment

1. Payment will be made by bank transfer to a bank account designated by ITHAX, unless otherwise agreed.
2. ITHAX will send an invoice for the amounts owed by the Other Party. The payment term of each invoice is 30 days after the date of the relevant invoice, unless otherwise indicated on the invoice or otherwise agreed.
3. Invoicing of the various products takes place as follows, unless otherwise agreed:
 - Software: immediately after delivery;
 - Subscription: immediately after delivery and thereafter always prior to the new subscription period;
 - Services: On the basis of invoicing agreed in the quotation, If no explicit agreements are made for this, have been made on a monthly basis based on actual costing;
 - Training: immediately after the assignment has been awarded.
 - Hosting: Immediately after commissioning
4. Hosting must be paid in advance at all times for a period of one year.
5. ITHAX and the Other Party may agree that payment shall be made in instalments in proportion to the progress of the work. If payment in instalments has been agreed, the Other Party must pay in accordance with the instalments and percentages as laid down in the Agreement.
6. Objections to the amount of the invoice do not suspend the payment obligation of the Other Party.
7. The Other Party is not entitled to deduct any amount due on account of a counterclaim made by it.
8. In the event of non-payment or late payment, the Other Party will be in default by operation of law without notice of default. In that case, the Other Party will owe the statutory commercial interest from the date on which the payment became due until the day of full payment, whereby interest for part of the month is calculated over a whole month.
9. A payment made by the Other Party is primarily intended to be deducted from all interest and costs due and finally from invoices that are due and payable for the longest period of time, even if the Other Party states that the payment relates to later invoices.
10. If the Other Party is in default or in default in the (timely) fulfilment of its obligations, ITHAX may hand over the claim. In addition to the total amount due at that time, the Other Party is also obliged to reimburse all judicial and extrajudicial costs, including all costs calculated by external experts.
11. With regard to the extrajudicial (collection) costs, ITHAX is entitled to a compensation of 15% of the total outstanding principal amount with a minimum of €100 for each invoice that has not been paid in whole or in part.
12. In the event of non-payment after notice of default, ITHAX reserves the right to suspend its activities and obligations under the assignment until such time as the payment obligation has been fulfilled. The (temporary) cessation of activities and obligations by ITHAX does not release you from your payment obligation.
13. In the event of bankruptcy, suspension of payments, liquidation, total attachment of assets, death or guardianship, ITHAX's claims and the Other Party's obligations towards ITHAX shall be immediately due and payable.
14. Any reasonable legal costs and execution costs incurred will also be borne by the Other Party.

13. Retention of title and right of use

1. The ownership of Products delivered by ITHAX to the Other Party will only be transferred to the Other Party if the latter has properly fulfilled everything and has paid what it owes on the basis of the Agreement.
2. The right to use services provided by ITHAX is granted on condition that the Other Party has paid in full all fees due between the Parties. If the Parties have agreed on a periodic payment obligation for the grant of a right of use, the Other Party shall be entitled to the right of use as long as it fulfils its periodic payment obligation.
3. The amount due also includes the reimbursement of all costs and interest (including for previous and subsequent deliveries), as well as claims for damages for failure to perform.
4. As long as the ownership of the delivered goods has not been transferred to the Other Party, the latter may not resell, pledge or in any other way encumber what is subject to the retention of title, except within the normal course of his/her business.

14. Delivery

1. If a term has been agreed or specified for delivery, this term is only indicative and should never be regarded as a strict deadline, unless explicitly agreed in writing.
2. ITHAX shall not be liable in the event of harmful consequences for the Other Party as a result of exceeding delivery deadlines, unless there is intent or gross negligence on the part of ITHAX.
3. If ITHAX requires data, materials or instructions from the Other Party that are necessary for the delivery, the delivery time will commence after the Other Party has provided them to ITHAX.
4. ITHAX shall not be in default by operation of law after the agreed delivery periods have expired. This will require a further written notice of default, whereby ITHAX will be granted a period of at least 14 days to comply with its obligations.
5. A notice of default is not required if delivery has become permanently impossible or if it is otherwise apparent that ITHAX will not comply with its obligations under the Agreement. If ITHAX does not deliver within this period, the Other Party has the right to dissolve the Agreement in accordance with Article 265 Book 6 of the Dutch Civil Code.

15. Maintenance

1. If the Other Party enters into a subscription agreement with ITHAX, preventive and corrective maintenance is included in the subscription fee. Not included is adaptive maintenance at the specific request of the Other Party. If the Other Party has a specific wish to adapt a subscription service, it may submit a request to ITHAX, after which ITHAX will (as far as possible) prepare a quotation for adjustment.
2. After delivery and acceptance by the Other Party, the Other Party may enter into a maintenance and/or hosting agreement. ITHAX will prepare a separate offer for this.
3. Both the Other Party and ITHAX have the right to terminate the maintenance and/or hosting agreement. The maintenance and/or hosting agreement can be terminated annually with due observance of a notice period of 3 months and must be in writing.
4. The costs associated with such an agreement must always be paid in advance for one year.

16. Force majeure and unforeseen circumstances

1. A shortcoming cannot be attributed to ITHAX or the Other Party, as the failure is not due to its fault, nor is it for its account by virtue of the law, legal act or generally accepted opinions. In this case, the parties are also not obliged to comply with the obligations arising from the Agreement.
2. For the purposes of the General Terms and Conditions, force majeure is understood to mean, in addition to what is understood in the law and jurisprudence in that area, all external causes, foreseen or unforeseen, over which ITHAX has no influence and as a result of which ITHAX is unable to fulfil its obligations.
3. Force majeure on the part of ITHAX is in any case understood to mean:
 - a. Strikes;
 - b. traffic disruptions;
 - c. government measures that prevent ITHAX from fulfilling its obligations in a timely or proper manner;
 - d. riots, riots, war;
 - e. traffic obstacles;
 - f. lack of manpower;
 - g. extreme weather conditions;
 - h. fire;
 - i. prohibitions on import, export and/or transit; and/or
 - j. any circumstance that impedes the normal course of business as a result of which ITHAX's performance of the Agreement may not reasonably be required by the Other Party.

17. Termination of agreement

1. The parties may terminate the Agreement at any time by mutual consent.
2. The Other Party may terminate a subscription agreement at any time with due observance of a notice period of 3 months. If ITHAX receives a termination within 3 months of the next subscription term, the agreement will be terminated at the end of the next subscription period.
3. Both parties have the right to dissolve the agreement due to an attributable shortcoming in the performance of the agreement, only if the other party, always in all cases after a written notice of default that is as detailed as possible in which a reasonable period is set for remedying the shortcoming, imputably fails to comply with essential obligations under the agreement. This includes obligations to pay, cooperation and the provision of information.
4. If, at the time of termination of the agreement, you have already received a (partial) performance from ITHAX, these services will not be subject to cancellation, unless you demonstrate that ITHAX is in default with regard to the essential part of those performances. Amounts invoiced by ITHAX prior to the dissolution for deliveries or work that have been properly carried out or delivered shall remain due in full subject to the provisions of the previous sentence and shall become immediately due and payable at the time of dissolution.

5. The parties may terminate the Agreement in writing with immediate effect, in the event of:
 - a. application by or granting of suspension of payments to the other party;
 - b. filing for bankruptcy or bankruptcy of the other party; or
 - c. liquidation of the other party or non-temporary cessation of the business of the other party.
6. If the Agreement is terminated, ITHAX's claims against the Other Party shall be immediately due and payable. If ITHAX suspends the performance of its obligations, it retains its rights under the law and the Agreement. ITHAX reserves the right to claim damages at all times.

18. Liability

1. ITHAX is only liable for direct damage caused by gross negligence or intent on the part of ITHAX, and not for more than the amount paid by the insurer to ITHAX or up to a maximum of once the amount stated in the invoice. If the agreement has a term of more than one year, the maximum compensation is set at the total of the fees (excl. VAT) for one year.
2. Direct damage is exclusively understood to mean:
 - a. reasonable costs to determine the cause and extent of the damage, insofar as the determination relates to damage within the meaning of the General Terms and Conditions;
 - b. reasonable costs incurred to ensure that ITHAX's defective performance complies with the Agreement, insofar as these are attributable to ITHAX; or
 - c. reasonable costs incurred to prevent or limit damage, insofar as the Other Party demonstrates that these costs have led to the limitation of direct damage as referred to in the General Terms and Conditions.
3. ITHAX is never liable for indirect damage, including consequential damage, loss of profit, missed savings, damage due to business interruption, damage to its image, damage as a result of the provision of inadequate cooperation and/or information from the Other Party, damage due to non-binding information or advice given by ITHAX, the content of which is not an explicit part of the Agreement and all damage that does not fall under direct damage within the meaning of this general conditions.
4. ITHAX is never liable for errors in the material provided by the Other Party or for misunderstandings or errors with regard to the execution of the Agreement if they are caused by actions of the Other Party, such as the failure to provide complete, sound and clear data/materials in a timely manner or not at all.
5. ITHAX shall never be liable for errors if the Other Party has previously given approval or has been given the opportunity to carry out an audit and has indicated that it does not need such an audit.
6. The limitations of liability laid down in this article shall also be stipulated for the benefit of third parties engaged by ITHAX for the execution of the Agreement.
7. ITHAX shall not be liable for any damage or destruction of documents during transport or during transmission by post, regardless of whether the carriage or transmission is carried out by or on behalf of ITHAX, the Other Party or third parties.
8. Unless performance by ITHAX is permanently impossible, ITHAX's liability for attributable failure to perform the agreement will only arise if you immediately give ITHAX written notice of default, setting a reasonable period for discharge and ITHAX imputably continuing to fail to comply with its obligations even after that period. The notice of default must contain a description of the breach that is as complete and detailed as possible, so that ITHAX is given the opportunity to respond adequately.
9. A condition for the existence of any right to compensation is always that you report the damage in writing to ITHAX as soon as possible after it has occurred, with due observance of the provisions of Article 24.

19. Secrecy

1. Both parties are obliged to maintain the confidentiality of all confidential information that they have obtained from each other or from any other source within the framework of the Agreement. Information is considered confidential if it has been communicated by the other party or if this arises from the nature of the information. The party receiving confidential information will only use it for the purpose for which it was provided.
2. The restrictions in Section 21.1 do not apply: (i) to information that has become public without breach of a confidentiality obligation; (ii) to information for which it can be shown that a Party already had access to that information before it was provided by the other Party, unless that information was prepared by the first Party for the benefit of the other Party; (iii) to information that can be shown to have been independently developed.
3. If, on the basis of a statutory provision or a court decision, ITHAX is obliged to provide confidential information to third parties designated by law or the competent court, and ITHAX cannot invoke a right of non-disclosure recognized or permitted by law or by the competent court, ITHAX shall not be obliged to pay compensation or indemnification and the Other Party shall not be entitled to dissolve the Agreement on the basis of any damage caused by this.
4. Without prejudice to the foregoing, ITHAX is entitled to include the name of the Other Party on a list of contacts, which will be published on the website or through other communications to third parties, unless otherwise agreed.

20. Protection

1. The Other Party indemnifies ITHAX, to the extent permitted by law, against liability towards one or more third parties, which has arisen from and/or is related to the performance of the Agreement, regardless of whether the damage is caused by ITHAX or by its auxiliary person(s), auxiliary goods or (delivered) Products or Services has been caused or inflicted.
2. In addition, the Other Party indemnifies ITHAX, to the extent permitted by law, against all claims by third parties in connection with any infringement of intellectual property rights of these third parties.
3. The Other Party is always obliged to do everything in its power to limit the damage.

21. Intellectual

1. All intellectual property rights to all products, materials, analyses, designs, sketches, software, equipment, documentation, advice, reports, (electronic) information as well as preparatory material thereof developed or made available in the context of the Agreement (collectively, the "**IP Material**"), are vested exclusively in ITHAX or its licensors.
2. IP Material that belongs to the Other Party at the start of an assignment remains, unless otherwise agreed in writing, to the Other Party.
3. The Other Party shall only acquire any rights and powers with regard to the IP Material arising from the Agreement and/or which are expressly granted in writing.
4. The Other Party has a duty of confidentiality, and is obliged to treat confidentially, with respect to IP Material made available, as it contains confidential information and trade secrets of ITHAX or its licensors.
5. The Other Party is not permitted to transfer any acquired right or authority with respect to the IP Material to any third party without the prior written consent of ITHAX.
6. The Other Party is not permitted to remove or change any indication regarding intellectual property rights such as copyrights, trademark rights or trade names from the IP Material, unless otherwise agreed.
7. ITHAX is permitted to take technical measures to protect the IP Material. If ITHAX has secured the IP Material by means of technical protection, the Other Party is not permitted to remove or circumvent this protection.
8. Any exploitation, reproduction, use or disclosure by the Other Party of the IP Material that falls outside the scope of the Agreement or rights and powers granted is considered a violation of ITHAX's intellectual property rights.
9. The Other Party shall pay ITHAX an immediately due and payable penalty of €25000 per infringing act for such a breach, without prejudice to ITHAX's right to obtain compensation for its damages as a result of the breach or to take other legal measures to have the infringement terminated.
10. There shall be no violation of the intellectual property rights if the Other Party has received express written permission from ITHAX for exploitation, reproduction, use or disclosure of the IP Material that falls outside the scope of the Agreement or granted rights and powers.
11. ITHAX will provide backup copies of e-mails, websites and databases unless expressly stated otherwise on the ITHAX websites and/or otherwise agreed. However, ITHAX does not bear any responsibility for any loss of data and the resulting damage. However, the backup copies are for personal preservation. The Other Party must also guarantee important information itself.
12. All IP Material developed by ITHAX for the execution of the Agreement may be used by ITHAX for its own promotional purposes, unless otherwise agreed with the Other Party.

22. Privacy

1. ITHAX respects the privacy of the Other Party. ITHAX handles and processes all personal data provided to it in accordance with the legislation in force, in particular the General Data Protection Regulation. The Other Party consents to this processing. In order to protect the personal data of the Other Party, ITHAX applies appropriate security measures.
2. ITHAX will only use the personal data of the Other Party in the context of the execution of the Agreement or the handling of a complaint.
3. You indemnify ITHAX against claims from persons whose personal data has been or will be processed for which you are responsible under the law, unless you demonstrate that the facts on which the claim is based are attributable to ITHAX.
4. You are responsible for the data processed for you by ITHAX in the context of the agreement. You warrant to ITHAX that the content, use and/or processing of this data is not unlawful and does not infringe any rights of a third party. You indemnify ITHAX against any legal claim by a third party, for whatever reason, in connection with this data or the performance of the agreement.
5. If ITHAX is required to transfer data on the basis of a competent order or legal obligation, we will exercise the utmost care and limit the disclosure to what is strictly necessary.
6. For more information about privacy, please refer to the ITHAX website.

23. Expiry period

Contrary to the statutory limitation periods, a limitation period of one year applies to all claims and/or powers that the Other Party has against ITHAX and/or against any third parties engaged by ITHAX, from the moment that a fact occurs that the Other Party may use these rights and/or powers against ITHAX and/or any third parties engaged by ITHAX.

24. Transfer

1. The Other Party is not permitted to transfer rights and obligations arising from the Agreement to third parties without having obtained written permission from ITHAX.
2. ITHAX is entitled to attach conditions to this consent.

25. After-effects

The provisions of the General Terms and Conditions and the Agreement, which are expressly or by their nature intended to remain in force even after termination of this Agreement, shall thereafter remain in force and shall continue to bind both parties.

26. Remaining

1. Any deviations from these General Terms and Conditions can only be agreed in writing. No rights can be derived from such deviations with regard to legal relationships entered into subsequently.
2. Unless proven otherwise, the records of ITHAX shall be deemed to be proof of the applications made by the Other Party. The Other Party acknowledges that electronic communications may serve as evidence.
3. If and to the extent that any provision of the General Terms and Conditions and the Agreement is declared null and void or annulled, the other provisions of these General Terms and Conditions and the Agreement will remain in full force and effect. ITHAX will then adopt a new provision to replace the null and void provision, taking into account the purport of the null and void provision as much as possible.
4. The place of performance of the Agreement shall be deemed to be the place where ITHAX is located, unless otherwise agreed.

27. Applicable law and choice of forum

1. All Agreements, the General Terms and Conditions, and all non-contractual rights and obligations arising therefrom, are governed in all respects by Dutch law.
2. All disputes between ITHAX and the Other Party, which may arise as a result of an Agreement and/or the General Terms and Conditions, or agreements resulting therefrom, will be settled in the first instance by the competent court of the District Court of Gelderland.