Terms and Conditions

Terms and Conditions GladonMedia

Article 1. Definitions
In these Terms and Conditions, the following definitions shall apply:
1a **'Contractor':** Contractor shall be understood to mean GladonMedia, established in Zwanenburg, KvK (Netherlands Chamber of Commerce) number 85840068.
1b **The 'Client':** Client shall mean any legal person or entity that wishes to conclude or has concluded an agreement with GladonMedia as well as its representatives.
1c **Agreement**: every agreement between Contractor and Client, as well as all (legal) acts in preparation and execution thereof;
1d **Products**: all goods and services directly related to the delivery of those goods that are the subject of an Agreement;

Article 2. Applicability
The Conditions are part of all Agreements and apply to all related (legal) acts of the parties. Contractor explicitly rejects applicability of the general terms and conditions of Client. If the parties conclude a service agreement with respect to the Products, this service agreement shall also be subject to the following, depending on the type of Products.

2a These general conditions apply to all offers and agreements that relate to products, goods and services offered by Contractor.
2b The applicability of any general terms and conditions used by Client is explicitly rejected.
2c Contractor is entitled to unilaterally amend these general terms and conditions. These amendments shall also apply to agreements running at the time of the amendments. Amendments shall be announced to the Client by e-mail and shall take effect thirty (30) days after that announcement.
2d If any provision of the agreement or the general conditions turns out to be void or is annulled, this shall not affect the validity of the entire Agreement.

Article 3: Quotations and Offers
3a All quotes from the Contractor are without obligation unless expressly stated otherwise in writing.
3b All quotations are valid for thirty (30) days unless otherwise indicated. Quotations

must be confirmed in writing by Client within this period before Contractor accepts the order.
3c The prices charged by GladonMedia as well as the prices stated in offers, quotations, quotations, etc. are exclusive of VAT and any costs. These costs may include - but are not limited to - traveling expenses, transport costs, and invoices from engaged third parties.
3d Client grants to Contractor for the duration of the project the exclusive right to fulfill the assigned assignment.

Article 4: Formation of Agreements
4a If an offer by Client is accepted, the agreement will only come into effect after written confirmation by Contractor, or at the moment that Contractor has started the implementation activities with the approval of Client.
4b Verbal agreements only bind Contractor after they have been confirmed in writing by Contractor. Additions or amendments to the general terms and conditions or otherwise changes or additions to the agreement will only become binding after written confirmation by Contractor.

Article 5: Project Execution
5a The Contractor will execute the quoted project to the best of its knowledge and ability and will make every effort to perform the work properly, but cannot guarantee that the work will achieve the desired result for Client.
5b Client shall ensure that all data which Contractor indicates to be necessary for the proper performance of the Agreement, or which the Client should reasonably understand to be necessary for the execution of the agreement are provided to GladonMedia in a timely manner.
5c If the data required for the performance of the Agreement are not provided to Contractor on time, Contractor shall be entitled to suspend the performance of the Agreement and/or to suspend the extra costs resulting from the delay to Client.
5d The Contractor is entitled to have work performed by third parties without the Client's permission.

Article 6: Delivery of Scope of Work
6a If a deadline has been agreed on for the completion of certain work, then
this is only an indicative period and not a deadline. This also applies to the start date;
This is a target date and not a 'hard' date from which rights can be derived.
6b If Contractor expects not to meet a delivery deadline, he will notify Client of this as soon as possible.

Article 7: Reporting

7a At the Client's request, the Contractor will provide a concise summary of the work (without recording hours) to the Client. Reporting will take place in accordance with the project proposal as quoted.
7b If there is no reporting method or format specified, reporting shall be done by email in Dutch and/or English and according to the standards of good workmanship with a frequency of at least once a month.

Article 8: Modification of the project scope
8a If during the execution of the agreement, it appears that for a proper execution of the project, it's necessary to change or supplement the agreed work, the parties will timely and in mutual consultation adjust the content and/or scope of the project adjust.
8b If the parties agree to change or expand the scope of the project, the time of completion and the agreed project price may change. Contractor shall Inform Client of this as soon as possible.
8c Notwithstanding the provisions of paragraph b, the Contractor will not charge any additional costs if the change or extension is the result of circumstances for which the Contractor can be blamed.

Article 9: Confidentiality
9a The parties are obliged to keep confidential all confidential information that they have of the agreement and/or the project from each other or from any other source. Information is confidential if it has been designated as such by the other party or if this arises from the nature of the information
9b The Contractor reserves the right to use the Client's name as a reference and to disclose it as such. The Contractor also reserves the right to use achieved results through e.g. statistics as reference for a.o. potential clients or partners, provided that the Client's name is not mentioned or can be linked to these results.

Article 10: Personal data
10a Contractor assumes that Client does not provide collected personal data. If Client intends to provide personal data to Contractor, then Client shall inform Contractor in writing about this in advance, so that the appropriate precautionary measures can be taken.
10b If and to the extent Contractor qualifies as a processor within the meaning of the GDPR, the parties enter into a processor agreement.
10c The (personal) data provided to Contractor through the sites of Client will be treated confidentially. These data will not be made available to third parties, unless the third party/parties in question perform work for Contractor in the context of the assignment.

Article 11: Intellectual Property

11a All copyrights and other intellectual property rights relating to the services provided by Contractor are vested in the Contractor. Client acknowledges these rights and shall not infringe thereon.

11b All documents provided by Contractor may only be used by Client. The Client is not permitted to disclose information obtained from Contractor and/or reproduce it in any form whatsoever, unless prior written permission is approved in advance and in writing by Contractor or if this arises from the nature and purpose of the project.

11c All documents provided by Contractor for fulfillment of the project shall remain the property of Contractor. After completion of the project or end of the Agreement, Contractor may request Client to remove, destroy or return.

11d Client shall indemnify Contractor against all third-party claims regarding intellectual property rights relating to the use of the information and Contractor.

11e The Contractor shall be entitled to use the knowledge acquired during the performance of project activities for other purposes, to the extent that no confidential information of the Client becomes available to third parties.

Article 12: Duration and termination of agreements

12a Agreements are entered into for a minimum period of six (6) months unless the parties have expressly agreed otherwise in writing.

12b A fixed-term agreement as referred to in the previous paragraph cannot be terminated prematurely.

12c A fixed-term contract shall, after the expiry of the period stated in the Agreement always be automatically extended for the same period, but at least for six (6) months unless notice of termination is given by registered letter towards the end of the (extended) contract term and contract period and subject to a notice period of three (3) months.

12d The Contractor shall also have the right to terminate the Agreement with immediate effect or terminate the Agreement with immediate effect if:

- Client is in default of its obligations under the Agreement;

- Client is 'hard to work with' according to Contractor.

- Client is in liquidation or is declared bankrupt.

Debt Rescheduling (Natural Persons) Act is applicable to him or if the Client is in liquidation, declared bankrupt, or has been granted a moratorium.

Article 13: Fee & Merces Lucri (Prices/Retainer/Performance compensation)

13a Contractor and Client can agree on a fixed fee for the work to be carried out, or determine the fee afterward on the basis of the actual hours spent. Parties will specify the amount of the fixed fee or

the applicable hourly rate in writing. In addition, the parties have the option of agreeing to have the fee partly depend in some way on the result of the assignment. This can only be the case when the exact details are agreed upon in writing.
13b All prices and cost estimates are exclusive of VAT unless otherwise stated.
13c If no fixed price is agreed upon, the price will be determined on the basis of hours actually spent. The price will then be calculated according to the usual hourly rates of Contractor's usual hourly rates applicable in the period in which the work is performed unless a different hourly rate has been agreed upon.
13d For agreements with a term of six (6) months or more, Contractor shall charge fees for the whole six (6) months or on a monthly basis.
13e The prices used may be revised periodically (in principle on January 1 or July 1 of each year) on the basis of wage and inflation figures.
13f Prices are based, among other things, on cost-determining factors applicable at the time of the offer or agreement, including wages, social and fiscal charges, levies, insurance premiums, etc. If after the conclusion of the agreement and before the completion of the service or delivery, changes in these or other price-determining factors occur, the Contractor shall be entitled to (further) adjust its prices and invoice the Client.
13g PPC expenses (also "media buying costs") are in principle, paid by Client directly to the relevant advertising platform (e.g. Google Ads or Meta).
14g SaaS/Software expenses are in principle, paid by Client directly to the relevant SaaS platform (e.g. Shopify, Klaviyo/Activecampaign, or Hyros).
15g Certain engagements may be governed by a fee plus performance-based compensation model, herein referred to as ***Merces Lucri*** (Latin for “Reward of Profit”). Compensation shall consist of a percentage of net revenue directly attributable to the services provided by Contractor. This structure is intended to ensure mutual alignment of interests between Client and Contractor, whereby compensation is contingent upon the achievement of measurable results. The specific percentage, revenue attribution percentage, and payment schedule applicable to such arrangements shall be set forth in the Scope of Work or relevant addendum.

Article 14: Invoicing, payment terms, and collection costs
14a Invoices will be sent to the Client by email on a monthly basis.
14b Payment should be made within fourteen (14) days of the invoice date, unless otherwise agreed, in a manner to be indicated by the Contractor and in the currency invoiced. If the Client agrees to direct debit, until the collection authorization is revoked, all invoice amounts will be collected by the Contractor from the specified Client's account. The collection period for direct debit is about one day after the invoice date unless otherwise agreed in writing.
14c After the expiry of the aforementioned fatal term of payment of fourteen (14) days or

after the invoice date, the Client will be in default without any further notice of default being required. From the moment of default, the Client shall be liable to pay an additional interest of 1% per month, unless the statutory commercial interest rate is higher, in which case the statutory commercial interest rate shall apply.

14d After the payment deadline has passed and after at least one summons, the Contractor is entitled to suspend its work and services with immediate effect until full payment has been made. Upon suspension of the services by Contractor, Client shall still owe the Contractor payment for the ongoing costs the Contractor incurred, including the salary of the Contractor's employees involved in the order, and (apart of) the loss of turnover. The Contractor shall invoice the Client for these costs.

14e In the event of liquidation, bankruptcy or suspension of payment of Client, the claims of the Contractor and the obligations of the Client towards the Contractor shall be immediately due and payable.

14f If Client is in default or omission in the (timely) fulfillment of its obligations, all reasonable costs incurred to obtain payment out of court shall be borne by the account of Client, whereby the amount of the extrajudicial costs to at least 15% of the principal sum, with a minimum of € 300. Client will then be obliged to pay the start-up costs incurred by Contractor, as well as the agreed amounts for the contract period stated in the offer - with a maximum of 36 (thirty-six) months - to Contractor.

Article 15: Liability

15a The Contractor is in no way liable for damage suffered by Client or a third party affiliated with him arising from:

- Errors in advice, materials, and/or computerized files provided by Contractor;
- Texts, images, or other data provided by the Client; or unlawful use thereof by the Client;
- The content of advertisements or publications of other clients or authors in the same or another edition, section, and/or elsewhere in the electronic service, which might detract from the purpose of the publication concerned as intended by the Client publication;
- Failure by Client to follow the advice provided by Contractor;
- The unauthorized use of the services offered by Contractor or the manner in which the services are provided by the Contractor;
- Failures in the electronic services of Contractor and third parties, such as search engines, providers, network operators, or other telecommunications networks;
- Clicks on advertisements placed by Contractor on behalf of Client, which do not lead to a page visit to the Client's website; and/or
- an infringement, alleged or otherwise, of trademark rights or other intellectual property right on the grounds of which third parties sue the Client.

15b Under no circumstances shall the Contractor be liable for consequential damage, indirect damage, trading loss, or damage caused by auxiliary persons and/or third parties engaged by the Contractor in the performance of the Agreement.
15c If with due observance of the previous paragraphs - the Contractor at any time nevertheless liability arises for damage which the Client (or a third party affiliated with the Client) has sustained due to an attributable failure by the Contractor to fulfill its obligations under the Agreement, this Agreement by Contractor, this liability will in all cases be limited to that which is paid out by the Contractor's insurer or, if the insurer makes no payment, maximum the invoice value of that specific part of the agreement to which the liability relates to.
15d Damage for which the Contractor is liable will only be eligible for compensation if the Client has informed the Contractor of it in writing within 30 (thirty) days of its occurrence unless Client can make it plausible that he could not reasonably have reported this damage earlier. In the event of untimely notification by Client, any claim with respect to this complaint against Contractor expires.
15e The Client shall indemnify the Contractor against the liability of third parties with respect to damage of any kind arising from or in connection with the performance of the Agreement.

Article 16: Force Majeure

16a The Contractor shall not be liable in the event of force majeure. These Terms and Conditions, in addition to its definition in law and jurisprudence, shall be understood to include: all external causes, foreseen or unforeseen, over which the Contractor has no influence, but which prevents Contractor from fulfilling its obligations. Force majeure includes in any case: epidemic or pandemic, restrictive government measures, strikes, walkouts, excessive absenteeism of personnel, a (temporary) shortage of personnel, fire, operational and technical failures within the firm or at the external parties engaged by Contractor and in particular breakdowns in the Internet and/or the search engines, as well as failure, at the discretion of the Contractor, to have sufficient data or the provision of incorrect data, or the lack of sufficient cooperation by the Client.
15b In the event of force majeure, the Contractor is entitled to suspend the Agreement (in whole or inpartially) to suspend the agreement for as long as the force majeure situation continues. If the force majeure situation lasts longer than 30 (thirty) days, then Contractor may terminate the Agreement with immediate effect without being liable to pay any damages or compensation to Client. In this case, the Contractor is obliged to notify the Client immediately.
15c If the Contractor can partially meet its obligations when the force majeure occurs, it is entitled to invoice separately the part already performed or part which can be performed and the Client is obliged to pay this invoice as if it were a separate agreement.

Article 17: Specific Provisions Online Marketing

17a The Contractor will never give guarantees on turnover, profit, number of website visitors, quotations, requests, contacts or other turnover-related matters arising from any product whatsoever. For this reason, the Contractor cannot be held liable or be held in default for/due to disappointing sales results or other turnover-related results arising from the services or products provided by Contractor.

Article 18: Specific provisions PPC Advertising (SEA and Social Media Advertising)

18a The Client grants Contractor for the duration of the agreement an exclusive, authoritative right to carry out PPC campaigns in relation to the social platforms, search engines, and websites specified in writing. "PPC campaigns" in this context means advertising campaigns via advertising platforms such as Google Ads, Bing Ads, Facebook ads, Instagram Ads, Youtube ads, TikTok Ads, etc.

18b The Client grants Contractor an exclusive power of attorney to perform all actions that Contractor deems necessary in setting up and managing the PPC campaigns. Insofar as PPC-related work is performed by third parties for the Client, the Client must notify Contractor of this in a timely manner.

18c Part of the work of personnel (and/or campaign manager) consists of monitoring the campaign and analyzing data. Another part of the work can be found in the change history of the Google Ads account.

18d If Client wishes to suspend its campaign/account or has no budget, the management fee will continue regardless of whether or not the campaign is on.

18e If Contractor sets up an account in which Contractor also pays the budget, remains the property of the Contractor; it cannot be transferred.

18f If Contractor creates an account on behalf of the Client and Client settles directly with Google, the Client becomes the owner of the account.

18g Client remains solely responsible for all their PPC campaigns, including creative used, landing pages, keywords, and texts of ads.

18h The Contractor cannot be held liable for rejected ad copy, loss of sales for not having a campaign live, reduction of conversions or of website/webshop sales, or for other negative consequences.

18i Google Ads is an advertising program of Google and not of Contractor. This maintains and optimizes a campaign to the best of its ability but in doing so is always dependent on how this program behaves. Client must comply with the regulations of Google Ads. The same counts for every other advertising platform.

18j Positions with PPC advertising and Google Ads arise on the basis of a bidding system, as a result of which Contractor can never give guarantees on certain positions.

18k The Client is not permitted during the contract period to advertise on search engines on which Contractor has a campaign for Client running that links to the same website(s) as the advertisements that Contractor placed on behalf of the Client.
18l The performance of work by a third party (web builder) or by the Client itself to the website for the benefit of the PPC campaign (placing scripts for the purpose of measuring conversions, Analytics, etc.) is done under the responsibility of the Client and not that of the Contractor. The Contractor is not responsible for missing data if a script is not placed (properly) by Client/web builder or external party.
18m The Contractor is not liable if certain Google Ads functionalities cannot be put into function due to limitations of the website/cms or due to the limitation of the Client's products (such as for products without EAN numbers).
18n The Contractor is not liable for the (negative) consequences regarding the campaign or the results if those consequences are caused by adjustments on the website or Google Ads campaign by the Client and/or third parties.
18o The costs charged by social platforms and search engines related to the PPC campaigns should in principle be paid directly by the Client, without the intervention of Contractor, to the relevant advertising platform. Contractor cannot be held responsible for the consequences of payment delays and balance shortfalls on the part of the Client.
18p Client warrants and shall at Contractor's first request confirm in writing that: advertising material supplied by Client or third parties engaged by Client has been prepared in accordance with IAB standards, is free of technical defects, and is suitable for the placement of performance measurement and control systems (including "tagging");

Article 19: Specific Provisions Digital Analytics and Conversion Optimization
19a Contractor will make every effort to ensure data quality and integrity with regard to data collected on the Clients' website(s). However, Client is responsible for the proper technical implementation of the software and/or tooling used to collect this data on its own website, whether or not based on advice provided by Contractor in this regard.
19b The Contractor is not liable for the enforcement of privacy laws through the use of tools that record personal data and user behavior on the Client's website.
19c The Contractor provides no guarantee that the generated revenue/profit/conversion ratio will actually increase as a result of using the service. The service is solely aimed at analyzing, researching, and recommending conversion optimization points, not to the actual implementation of these recommendations on the respective website.

Article 20: Specific Provisions Social Media

20a The Contractor is not liable for:
- the rights to (visual) content (photos, videos) posted on the social media channels
of the Client;
- the (unlawful) mention of protected brand names on the social media channels of the Client
Client;
- any damage to the image caused by messages posted on the Client's social media channels.
Client.
20b The Contractor is not responsible for the payment of prizes for competitions on the Client's social media channels.

Article 21: Specific Provisions Email Marketing.
21a The Contractor is not liable for:
- monitoring and enforcing the legal guidelines for collecting a
mail file;
- processing subscriptions and unsubscriptions from any mail file.
21b The Client is responsible for ensuring that the email addresses in the client file of the customers have been lawfully obtained according to the guidelines of the Advertising by Email Code (CODE EMAIL 2012)-this means that customers have had the opportunity to refuse commercial e-mails- and that new customers have actively consented to receive
commercial emails.
21c The Contractor is not liable for any future disputes with the Advertising Code Commission, arising from failure to comply with the above.

Article 22: Transfer and Adaptation Of The Agreement
22a Contractor is entitled without written permission from Client to transfer the rights and obligations under this Agreement in whole or in part to (a) third party (parties).

Article 23: Non-Solicitation Clause
23a The Client is prohibited, during the term of the Agreement with the Client and twenty-four (24) months thereafter, to employ or approach staff of the Contractor for the purpose of employment, or otherwise to perform work for the Client unless the Contractor has given its prior written consent.
23b In the interpretation of article 18c, 'personnel' shall mean: everyone who is employed by the Contractor in the performance of work (in the broadest sense of the word), including in any case: employees, freelancers, self-employed persons, temporary workers, and payroll workers.

23c If the Client violates article 23a, it shall immediately cease these activities and forfeit an immediately payable penalty of €35,069 and €2,469 for each day that the violation continues, without prejudice to the Contractor's right to claim full damages.

Article 24: Competent court and applicable law

24a All agreements between the parties and obligations arising therefrom or related thereto are governed by Dutch law.

24b All disputes arising from or related to the agreements and commitments referred to in the previous paragraph shall in the first instance be brought exclusively before the Amsterdam District Court, except in so far as another location follows the law.

Article 25: Amendment of terms and conditions

25a GladonMedia is authorized to make amendments to these terms and conditions. These amendments will come into force at the time announced and after Contractor has sent the amended terms and conditions, electronically or otherwise, to the Client.