



# GENERAL TERMS & CONDITIONS

## 1. General

- 1.1 These terms and conditions are applicable to the use of the software application “Idiligo” by Customers of Idiligo B.V. as well as all service-agreements - under whatever name – regarding the lay-out or design, implementation and management of the application, training and consultancy.
- 1.2 Idiligo is a trade name of Idiligo B.V. a limited liability company, organised under the laws of the Netherlands having its corporate seat (statutaire zetel) at Hoofddorp and its registered office at (1014 BA) Amsterdam, Kabelweg 57.
- 1.3 Customer is defined as: every natural person or legal entity which has entered into an agreement with Idiligo B.V. as well as every natural person or legal entity using Idiligo with the permission of a Customer.
- 1.4 These terms and conditions apply to: all offers, quotations, tenders, instructions, legal relationships and agreements between (potential) Customers and Idiligo B.V.

## 2 Offers, tenders and quotations

- 2.1 All offers, tenders and quotations of Idiligo B.V., in whatsoever form made, are in all aspects non-binding, unless signed or confirmed by Idiligo B.V. Offers, tenders and quotations shall not apply automatically to future orders.
- 2.2 Idiligo B.V. shall not be held to her offer, tender or quotation if the Customer can reasonably understand that the offer, or any part thereof, contains an obvious mistake or error.
- 2.3 Unless otherwise stated, all prices included in offers, tenders and quotations are exclusive of VAT or any other (government) levies.

## 3 License and usage

- 3.1 Idiligo B.V. grants to her Customers a non-transferable, non-exclusive and revocable license to use the Idiligo software application.
- 3.2 The Idiligo software application is made available to the Customers for usage within the normal business operations of the Customer. The Idiligo software application is provided for business use only and may not be made available to third parties by the Customer.
- 3.3 The Customer shall be responsible for the use of the Idiligo software application and guarantees that all instructions given by Idiligo B.V. regarding the use of Idiligo software application shall be strictly observed and followed by the Customer’s users.
- 3.4 As regards the use of the Idiligo software application, the Customer shall abstain from all activities which he knows or ought to know to be in violation of a statutory provision. Furthermore the Customer shall abstain from all activities that may cause damage to Idiligo B.V.
- 3.5 The Customer is responsible for the termination of the licenses of its individual users regarding the Idiligo software application.
- 3.6 The Customer shall meet all conditions for the use of the Idiligo software application as set by Idiligo B.V.
- 3.7 Idiligo B.V. is allowed to assign activities under the agreements with Customers to third parties.

## 4 Duration and termination

- 4.1 The agreement between Idiligo B.V. and the Customer is concluded for a term of twelve months and shall commence on the activation date. Within this contractual term, the agreement cannot be terminated.
- 4.2 Upon expiration of the contractual term as referred to in article 4.1, the agreement shall be

automatically renewed for additional periods of one year.

- 4.3 Upon expiration of the contractual term as referred to in article 4.1, parties may withdraw from the agreement against the end of the contractual term, with due observance of a period of notice of one month. Licenses of the Customer's individual users can be terminated in advance against the end of each calendar month..

## **5 Force majeure**

- 5.1 Idiligo B.V. shall not be considered in breach of any agreement in the event Idiligo B.V. is prevented to fulfil its obligations towards the Customer due to a circumstance which cannot be attributed to fault of Idiligo B.V. and which is not regarded as her responsibility by virtue of the law, legal action or according to generally accepted standards ('force majeure').
- 5.2 In these terms and conditions, the term 'force majeure' will be taken to mean – in addition to its definition in law and legal precedent – all external causes, foreseen and unforeseen, which Idiligo B.V. cannot influence, but as a result of which she is unable to perform her obligations. This will include strikes in Idiligo B.V.'s company. Idiligo B.V. also has the right to invoke force majeure if the circumstance that inhibits the (further) fulfilment of the agreement occurs after Idiligo B.V. should have fulfilled her obligation.
- 5.3 Idiligo B.V. may suspend the obligations ensuing from the agreement during the period that the force majeure continues. If this period lasts longer than two months, then each party is entitled to terminate the agreement without any obligation to pay damages to the other party.

## **6 Payment and performance by the Customer**

- 6.1 Payment shall be made by the Customer, without any deduction, discount or set-off, within fourteen days of the invoice date, by transfer to the bank account specified by Idiligo B.V.

- 6.2 Licence fees will be charged in advance monthly. In the event the Customer wants to add additional users, an additional licence fee per extra user shall be charged in advance pro rata.

- 6.3 The costs of implementation of the Idiligo software shall be charged in advance. Additional services regarding the lay-out or design, implementation and management of the application, training and consultancy, shall be charged afterwards on a monthly basis, unless agreed otherwise.

- 6.4 In the event of non-fulfilment, incomplete or late fulfilment of one or more of the Customer's obligations under the agreement, Idiligo B.V. shall - without prejudice to Idiligo B.V.'s other rights under the agreement or the law, and without notice of default being required – be entitled to charge the Customer an interest at the rate of 1% per month or, if this is higher, at the statutory rate of interest. The interest shall be calculated from the time that the Customer is in default until the moment of payment of the full amount owed.

- 6.5 Any objections against the amount invoiced do not suspend the Customer's payment obligations.

## **7 Prices**

- 7.1 Unless specifically agreed otherwise, a specified or agreed price does not include VAT or any other government levies.
- 7.2 Idiligo B.V. reserves the right to annually index the prices during the course of the agreement as per January of each year. The indices of the CBS (Central Bureau for Statistics Netherlands) as well as other external factors shall be used to determine the price increase.

## **8 Liability**

- 8.1 The use of the Idiligo software application is for the account and at the risk of the Customer and its users. In the event that Idiligo B.V. will be held liable, such liability shall be limited in accordance with this Article.

- 8.2 Idiligo B.V. shall never be liable for damage incurred by the Customer of any third party, unless such damage is caused by intent or conscious recklessness of Idiligo B.V.. This limitation of the liability of Idiligo B.V. also extends to employees of Idiligo B.V. as well as subordinates, or third parties engaged by Idiligo B.V., as well as subsidiaries or group entities. The liability of Idiligo B.V. shall never exceed twice the amount of the monthly licence fee.
- 8.3 Idiligo B.V. shall never be liable for indirect damage, including consequential damage, loss of profit, missed savings and damage due to business interruption, in any case. Deviation hereof may only be insured for the account and risk of the Customer.
- 8.4 Idiligo B.V. shall never be liable for any damage arising as a consequence of inaccurate and/or incomplete data provided by the Customer.

## **9 Technical failure**

- 9.1 Idiligo B.V. shall only be considered in default or in breach of any obligation, in case the Customer has sent to Idiligo a written notice of default giving Idiligo the opportunity to remedy its performance within a reasonable term of at least fourteen days and under the condition that within this reasonable period Idiligo B.V. has failed to do so for reasons that are to be considered for the account of Idiligo B.V.
- 9.2 In the event of technical failure of the Idiligo software application or other instances of non-availability of the Idiligo software application, the license fee shall nevertheless be due, without the entitlement of the Customer to suspend its payment obligation towards Idiligo B.V.

## **10 Guarantees and warranties**

- 10.1 Idiligo B.V. shall make all reasonable efforts to ensure that the delivered Idiligo software

application meets the Customer's expectation, however she does not give any guarantee to that end. The most up to date version of the application shall be delivered.

- 10.2 The Customer shall indemnify Idiligo B.V. against any and all claims by third parties, that might suffer damages resulting from the use of the Idiligo software application by the Customer and its users provided that the cause of the damages is not imputable to Idiligo B.V., taking into account Article 8. Should Idiligo B.V. be addressed by any claim from third parties related with the usage of the Idiligo software by Customer, the Customer is obliged to both extra-judicially and judicially assist Idiligo B.V. and immediately do everything that may be expected from him in that case.

## **11 Intellectual property**

- 11.1 The Idiligo software application, as well as all further developments that may take place during the course of the agreement ("Foreground") shall remain property of Idiligo B.V. Idiligo B.V. has the right to use the knowledge increased at her side by the execution of an agreement ("Foreground") for other purposes, provided that no strictly confidential information of the Customer will be disclosed to third parties.
- 11.2 Notwithstanding the provisions of these terms and conditions, Idiligo B.V. retains all rights as stipulated by the Dutch Copyright Act.
- 11.3 All reports, recommendations, agreements, drafts, designs, sketches, drawings, software, and so on, are provided by Idiligo B.V. to the Customer only for its own usage, and cannot be reproduced, republished or disclosed to third parties by the Customer without the written consent of Idiligo B.V.

## **12 Privacy and confidentiality**

- 12.1 Each of the parties to the agreement guarantees that all of the information received by the other party which is known to be or should be known to be confidential in nature shall remain secret,

unless a legal obligation mandates disclosure of that information. The party receiving confidential information shall only use it for the purpose for which it has been provided.

12.2 The Customer indemnifies Idiligo B.V. against claims by persons whose personal data have been registered or processed as part of a registration of persons performed by the Customer or its users or for which the Customer is otherwise responsible by virtue of the law, unless the Customer proves that the facts on which the claim is based should exclusively be ascribed to Idiligo B.V.

### **13 Applicable law and jurisdiction**

13.1 All offers and tenders of Idiligo B.V., as well as all agreements between Idiligo B.V. and the Customer are exclusively governed by the laws of the Netherlands. The provisions of the Vienna Sales Convention are excluded.

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