



Version 3 – June 2017

General Terms and Conditions

General Terms and Conditions of Sale, Delivery and Payment (the "General Conditions") of Avot Media BV, a private limited company with registered office at Zandwilg 14b, 1731 LS Winkel, the Netherlands, registered with the Netherlands Chamber of Commerce for Noordwest-Holland under reference 37063989, referred to below as "AM".

I. Scope and creation of contracts

1. These General Conditions govern all contracts in which AM is the supplier, as well as all contracts and offers drawn up by AM, unless specifically stated otherwise in writing by AM.
2. By accepting any offer or product from AM or by giving any order to AM, the client agrees to be bound by these General Conditions to the exclusion of any conditions that the client seeks to rely on that contradict any provision of these general Conditions, unless the parties expressly agree otherwise. No general terms and conditions other than these General Conditions are binding, irrespective of the contractual relationship.
3. Any change to a contract is only binding if agreed in writing. The client may not rely on agreed departure from these General Conditions for the purposes of any future transaction.
4. All offers made by AM are subject to contract unless the written offer specifies a time limit as binding for a certain period. Orders and agreements are binding upon AM only insofar as they have been confirmed in writing.

II. Prices

1. All prices quoted by AM in any form are net of VAT.
2. If any increase in / introduction of government taxes or (import) duties results in an increase in cost prices, then AM will have the right to pass on these increases, even if it is agreed that the price is fixed. In such a case, the client is not entitled to cancel any order already placed.

III. Risk

1. The risk of loss of, or damage to, goods that are the subject of any contract transfers to the client at the moment that these goods are actually made available to the client or to any agent used by the client.





IV. Payment

1. The client must pay all invoices in full, without any discount or set off, within 14 days of the invoice date, unless specifically agreed otherwise in writing.
2. A discount will not suspend any obligation to pay.
3. The client must pay 50% of the total contract price before the start of each new project. The remaining 50% must be paid following completion of the project.
4. If payment is not made within such payment term as has been agreed with the client, then the client will automatically be liable to pay interest on the debt at the statutory rate without the requirement for AM to first serve the client with notice of default. All collection costs, including all judicial or extrajudicial enforcement costs, are payable by the client. Extrajudicial collection costs will be 15% of the sum invoiced or a fixed sum of EUR 100 plus VAT, whichever is more.
5. If delivery and payment in instalments has been agreed, then AM is entitled to suspend delivery for as long as the client is in breach of its payment obligations.

V. Delivery terms

1. All delivery terms specified by AM are based on best endeavours according to information known to AM at the time of entering into the contract, and will be complied with as far as possible. AM will not automatically be in breach of contract if it fails to meet any specified delivery term. AM is not bound by any delivery term that it is no longer able to meet for any circumstance beyond its control that arises after entering into the contract. If any failure to meet a delivery term is threatened, AM will consult with the client as soon as possible.

VI. Contract changeszz

1. If at the request of, or with the prior consent of, the client, AM has performed work or tasks outside the scope and content of the agreed service, such work or tasks will be charged to the client at the usual rates of AM.
2. AM is not obliged, however, to comply with any such request and may require that this be covered by a separate written contract.





3. The client acknowledges that the changes to work or other tasks referred to in this article may affect the agreed or anticipated time for completion of the service and the mutual obligations of the parties.
4. Insofar as a fixed price has been agreed for the service and the parties intend to enter into a separate contract for the extra work or tasks, AM will notify the client in writing in advance regarding the financial consequences of this extra work or these extra tasks.

VII. Confidential information

1. Each party guarantees that all confidential information received from the other party before and after the start of the contract shall remain confidential.
Any other information will be regarded as confidential if it has been designated as such by either party or if it is otherwise confidential by its very nature.

VIII. Liability

1. Whilst AM will advise and carry out instructions to the best of its ability, it accepts no liability for any loss caused by or resulting from the use of advice and work supplied by AM. AM accepts no liability for loss caused by persons engaged by AM in the performance of its business.
2. AM accepts no liability for incorrect information, etc., supplied to AM by or on behalf of the client for use in the performance of the contract.
AM is not obliged to check information or documents sent by or on behalf of the client and may assume the accuracy thereof. The client will indemnify AM in this regard against any thirdparty claims based on any alleged inaccuracy.
3. AM is not liable for any direct or indirect loss other than that which it has expressly accepted liability for in these general conditions. The client indemnifies AM against any third-party claim in this regard.
4. The total liability of AM for any attributable breach of its contractual obligations is limited to compensation for direct loss up to the price agreed and paid for that contract, plus VAT. If the contract is for a fixed term exceeding one year, the agreed price will be the total of payments made in one year, plus VAT. In no case may the total amount of compensation for direct loss exceed EUR 10,000 (ten thousand euros).





5. 'Direct loss' is here limited to:
- I. The reasonable costs incurred by the client in enforcing compliance by AM in the performance of its contractual obligations. This loss will not however be compensated if the client has terminated the contract before its completion;
 - II. The costs incurred by the client in necessarily maintaining the operability of its old system or systems for a longer period and other related action due to failure by AM to comply with a binding delivery date, less any savings resulting from this delay in delivery;
 - III. The reasonable costs incurred in determining the cause and extent of the loss, insofar as this information is related to the direct loss as defined in these general conditions;
 - IV. The reasonable costs incurred in preventing or mitigating loss, insofar as the client can show that these costs have indeed resulted in a limiting of direct loss as defined in these general conditions. No direct loss may exceed the maximum specified in section 4 of this article.
6. The liability of AM for attributable breach of its contractual obligations only arises if the client immediately and properly serves AM with a written notice of default, specifying a reasonable period in which to remedy the breach, and if AM continues to be in breach even after the expiry of this period.
The notice of default should describe the breach in as much detail as possible, so that AM is able to respond adequately.
7. The client will lose all rights to compensation if it fails to notify AM in writing of the breach immediately after the breach occurs and in any event within seven days thereafter.

IX. Retention of rights and title

1. AM retains title to all goods delivered to the client until all sums owed by the client for goods delivered (or to be delivered) and any work performed (or to be performed) under the contract, including interest and enforcement costs, have been paid in full.
2. All intellectual and industrial property rights to all software, hardware or other materials developed or supplied as part of the contract, including analyses, drawings, designs, documentation, reports and offers, remain exclusively with AM or its licensors.
The client acquires only the user rights and authorities expressly granted under these general conditions or otherwise and may not make copies of the software or other materials.
3. The client is free to choose an alternative software developer in the event it can show any continued breach by AM, whereby AM will transfer all software paid for by, and specially written for, the client, with the exception of the original source code, which will remain at all times the intellectual property of AM.





4. The client will, apart from the situation set out in the previous section, not use or forward to any third party any source code or other software-related information because this source code remains the intellectual property of AM.

X. Force majeure

1. In the event of force majeure, AM is entitled to suspend performance of the contract without the need for the consent of the court, or to terminate all or any part of the contract without thereby incurring any liability to pay compensation or to give any guarantee.
2. 'Force majeure' here means any circumstance, whether foreseen or unforeseen, as a result of which the client cannot reasonably demand continued performance of the contract, including non-attributable breaches by AM's suppliers.

