General Terms and Conditions Youmie

Section I. General provisions

Article 1 – Definitions

In these general terms and conditions, the following terms have the following meanings:

1. **Customer**: the party with whom Youmie enters into an agreement or to whom Youmie makes an offer.
2. **Youmie**: Youmie B.V., established in Leiden (2315 WC) at Dorus Rijkersweg 15, Chamber of Commerce number: 42002355.
3. **Agreement:** any agreement concluded between Youmie and the customer, any amendment or supplement thereto, as well as all legal acts in preparation for and performance of that agreement.

Article 2 – Applicability

1. These general terms and conditions apply to every offer made by Youmie and to every agreement concluded between Youmie and the customer, unless the parties have expressly deviated from these general terms and conditions in writing.
2. The applicability of any purchase terms or other terms and conditions of the customer is expressly rejected.

Article 3 – The agreement

1. Youmie shall in all cases only be bound after it has accepted or confirmed an order or arrangement in writing, including by email. Oral commitments shall bind Youmie only after Youmie has confirmed them in writing.
2. Quotations or offers, or any part thereof, shall not bind Youmie if they contain an obvious mistake or error.

Article 4 – Price

1. Unless stated otherwise in writing, the prices quoted by Youmie are always exclusive of VAT.
2. Youmie is entitled to index its prices and rates annually in accordance with the CBS consumer price index (CPI). Youmie is furthermore entitled to pass on price increases charged by third-party suppliers.

Article 5 – Payment

1. Unless agreed otherwise, amounts payable by the customer must be paid within 14 days of the invoice date into the bank account specified by Youmie.
2. If the customer fails to meet its payment obligation(s) on time, it shall be in default (*verzuim*) without any notice of default (*ingebrekestelling*) being required. In that case, the customer shall owe statutory commercial interest on the outstanding amount. Interest on the due amount shall be calculated from the moment the customer is in default until full payment of the amount due.
3. If timely payment is not made, Youmie is entitled to suspend performance of the agreement immediately.
4. If the customer is in breach or default in the timely performance of its obligations, Youmie shall be entitled to charge the customer all reasonable extrajudicial costs incurred to obtain payment.
5. The customer shall never be entitled to set off or suspend any amount owed by it to Youmie.
6. Youmie may retain data, documents, software or data files received or generated in connection with the agreement, notwithstanding any existing obligation to deliver or transfer them, until the customer has paid all amounts owed to Youmie.

Article 6 – Cooperation

1. The parties acknowledge that the successful performance of work in the field of information and communication technology depends on proper and timely mutual cooperation. The customer shall at all times provide all reasonable cooperation in a timely manner.
2. The customer warrants the accuracy and completeness of the data, information, designs and specifications provided to Youmie by or on behalf of the customer.

Article 7 – Delivery dates

1. Delivery periods and/or delivery dates shall always be target dates and shall never constitute strict deadlines (*fatale termijnen*).
2. In the event of late delivery or performance, the customer must send Youmie a written notice, granting Youmie a reasonable period to perform after all. Default (*verzuim*) and the right to terminate for cause (*ontbinding*) shall arise only when Youmie also exceeds that further deadline.

Article 8 – Services

Youmie shall perform the services to the best of its knowledge and ability and in a professional and careful manner. All services provided by Youmie are performed on the basis of a best-efforts obligation (*inspanningsverbintenis*), unless and to the extent Youmie has expressly promised a result in a written agreement and the relevant result is also described in that agreement with sufficient specificity.

Article 9 – Confidentiality

1. The parties are obliged to keep confidential all data originating from the other party which they know or reasonably should know to be confidential, including in any event financial data and the contents of the agreement.
2. The obligations set out in this article do not apply if and to the extent disclosure of the relevant data is necessary pursuant to a court judgment, a statutory provision or for the proper performance of the agreement.
3. If Youmie carries out work in relation to customer data on the basis of a request or duly issued order from a government authority or in connection with a statutory obligation, all associated costs shall be charged to the customer.

Article 10 – Intellectual property

1. All intellectual property rights in the digital content made available to the customer under the agreement, such as software, websites and data files, or other materials such as analyses, designs, documentation,

reports, quotations and preparatory materials relating thereto, are vested exclusively in Youmie, its licensors or its suppliers. The customer obtains the rights of use expressly granted by the agreement concluded between the parties and by law. Any right of use accruing to the customer is non-exclusive, non-transferable, non-pledgeable and non-sublicensable.

2. If Youmie is willing to undertake to transfer an intellectual property right, such undertaking may only be entered into in writing and expressly. If the parties agree in writing that an intellectual property right in respect of software or other works or materials specifically developed for the customer will transfer to the customer, this shall not affect Youmie's right or ability to use and/or exploit, without restriction and for other purposes, the general principles, ideas, designs, documentation, protocols, standards and similar materials underlying that development, whether for itself or for third parties. Nor shall the transfer of an intellectual property right affect Youmie's right to carry out, for itself or for a third party, developments that are similar to or derived from those carried out or to be carried out for the customer.
3. Youmie indemnifies the customer against any third-party claim based on the allegation that software, websites, data files, equipment or other materials developed by Youmie itself infringe an intellectual property right of that third party, provided that the customer promptly informs Youmie in writing of the existence and content of the claim and leaves the handling of the matter, including any settlement negotiations, entirely to Youmie.

Article 11 – Information security

1. Youmie shall implement reasonable organisational and technical security measures to secure data centre facilities, servers, network equipment, storage media and host software systems over which Youmie has control and which are used to provide the services. Youmie may modify these and other security measures from time to time if necessary due to changing circumstances.
2. The customer has reviewed the measures referred to in the preceding paragraph, together with any additional security measures agreed in more detail, and has concluded that, taking into account the state of the art, the costs of implementation, as well as the nature, scope, context and purposes of processing, and in combination with the security measures taken by the customer itself, these measures result in an appropriate level of protection.
3. Youmie does not warrant that information security will be effective under all circumstances.
4. Unless the parties expressly agree otherwise, the customer itself shall be responsible for making backups of digital data.
5. Access or identification codes, certificates and other security resources provided to the customer by or on behalf of Youmie are confidential and shall be treated as such by the customer and disclosed only to authorised members of the customer's own organisation. Youmie is entitled to modify assigned access or identification codes and certificates. The customer is responsible for managing authorisations and for issuing and timely revoking access and authorisation codes.

Article 12 – Privacy

1. Where Youmie processes personal data on behalf of the customer in such a way that Youmie qualifies as the 'processor' within the meaning of the GDPR, the parties shall enter into a data processing agreement in accordance with a template to be prepared by Youmie that meets the requirements of article 28(3) GDPR.
2. Where Youmie processes personal data for its own purposes in such a way that Youmie qualifies as the 'controller' within the meaning of the GDPR, Youmie shall process such data in accordance with its privacy statement. This privacy statement can be consulted on Youmie's website via the URL: https://youmie.nl/privacyverklaring.

Article 13 – Term of the agreement

1. If and to the extent the agreement between the parties is a continuing performance agreement, the agreement shall be entered into for the agreed term, failing which a term of one year shall apply.
2. The term of a fixed-term agreement shall in each case be tacitly renewed for the duration of the originally agreed period, subject to a maximum of one year, unless the customer or Youmie terminates the agreement in writing by giving three (3) months' notice before the end of the relevant period.

Article 14 – Termination for cause

If, at the time of termination for cause (*ontbinding*), the customer has already received performances in implementation of the agreement, those performances and the related payment obligations shall not be subject to reversal (*ongedaanmaking*), unless the customer proves that Youmie is in default (*verzuim*) with respect to a material part of those performances. Amounts invoiced by Youmie before termination in connection with what it has already properly performed or delivered in implementation of the agreement shall, subject to the preceding sentence, remain fully payable and shall become immediately due and payable at the time of termination for cause.

Article 15 – Liability

1. Youmie is liable only for direct damage. Liability for indirect damage, including loss of profit, consequential damage, loss suffered, missed savings and damage due to business interruption, is expressly excluded.
2. Any liability of Youmie towards the customer for direct damage, on whatever ground, is limited per event, whereby a series of related events shall be regarded as one event, to the price agreed for that agreement, excluding VAT. If the agreement is primarily a continuing performance agreement with a term of more than six months, the price agreed for that agreement shall be deemed to be the total fees, excluding VAT, agreed for twelve months.
3. In no event shall Youmie's total liability for damage, on whatever legal basis, expressly including obligations to reverse performances within the meaning of Article 6:271 of the Dutch Civil Code (*ongedaanmaking*), exceed €25,000.

4. The limitations of liability included in this article do not apply if the damage is attributable to intent or gross negligence of Youmie's management.
5. The limitations and exclusions of liability included in this article also apply to all legal entities and companies affiliated with Youmie in a group, without those entities becoming parties to the agreement.

Article 16 – Errors, data recovery

1. Where these general terms and conditions refer to 'errors', this shall mean the substantial failure of the performance to meet the functional or technical specifications expressly made known by Youmie in writing. An error shall exist only if the customer is able to demonstrate it and the error is also reproducible. The customer is obliged to report errors without delay.
2. Youmie shall never be obliged to recover corrupted or otherwise lost data other than by restoring the most recent available backup, to the extent restoration is technically possible.

Article 17 – Force majeure

3. Youmie is not obliged to perform any obligation towards the customer if it is prevented from doing so as a result of a circumstance that is not attributable to its fault and is not for its account by virtue of law, a legal act or generally accepted principles.
4. Youmie may suspend its obligations under the agreement for the duration of the force majeure event.

Article 18 – Assignment

1. Youmie is at all times entitled to transfer its rights and obligations under the agreement, in whole or in part, to a group company within the meaning of Article 2:24b of the Dutch Civil Code. The customer hereby grants its cooperation in advance to such a transfer as referred to in Article 6:159(1) of the Dutch Civil Code. Youmie shall notify the customer in writing of the transfer no later than 30 days before its effective date.
2. The customer may transfer its rights and obligations under the agreement to a third party only with Youmie's prior written consent.

Article 19 – Governing law and disputes

1. Agreements between Youmie and the customer to which these general terms and conditions apply are governed exclusively by Dutch law, even if an obligation is performed wholly or partly abroad. The applicability of the Vienna Sales Convention is excluded.
2. All disputes arising from offers or agreements, however named, shall be submitted to the competent court in The Hague, the Netherlands.
3. The parties shall not refer a dispute to the court until they have made every effort to resolve the dispute by mutual consultation, expressly considering mediation.

Section II. Youmie-Service

The provisions set out in this Section II apply, in addition to the general provisions set out in Section I, to the use of the Youmie application for associations and communities made available by Youmie to the customer as Software-as-a-Service (SaaS), via an app store or web browser. This Section applies to both the Youmie "standalone" apps and the Youmie "platform" apps, including any membership administration systems connected thereto and provided by Youmie. These apps and services are hereinafter referred to, individually and collectively, as the 'Youmie-Service'.

Article 20 – Commencement

The Youmie-Service to be provided by Youmie (including associated support) shall commence within a reasonable period after the agreement has been entered into. Unless agreed otherwise, the Youmie-Service shall commence when Youmie makes available the means to access the Youmie-Service. The customer shall ensure that, after entering into the agreement, it provides all data required for the start-up phase in a timely and complete manner.

Article 21 – Provision of the Youmie-Service

1. Youmie provides the Youmie-Service on the instructions of the customer. The customer may use the Youmie-Service solely for the benefit of its own business or organisation and only insofar as necessary for the use intended by Youmie. The customer is not permitted to allow third parties to use the Youmie-Service provided by Youmie.
2. Youmie may make changes to the content or scope of the Youmie-Service. If such changes are substantial and result in a change to the procedures applicable at the customer, Youmie shall inform the customer thereof as timely as possible. The costs of this change shall be for the account of the customer. In that case, the customer may terminate the agreement in writing with effect from the date on which the change takes effect, unless the change relates to changes in relevant legislation or other regulations issued by competent authorities or Youmie bears the costs of the change.
3. Youmie may continue to perform the Youmie-Service using a new or modified version of the underlying software. Youmie is not obliged to maintain, modify or add specific features or functionalities of the service for the customer, unless expressly agreed otherwise.
4. Youmie is never obliged to provide the customer with a physical carrier or download of the underlying software.

Article 22 – Warranty

1. Youmie does not warrant that the Youmie-Service is error-free or operates without interruption. Youmie shall use its best efforts to remedy errors in the underlying software within a reasonable period if and to the extent such software was developed by Youmie itself and the relevant errors have been reported to Youmie in writing by the customer with a detailed description. Youmie may, where appropriate, postpone the correction of errors until a new version of the underlying software is put into use. Youmie does not warrant that errors in parts of the Youmie-Service not developed by Youmie itself, including errors caused by third-party services and APIs, will be remedied. Youmie is entitled to implement temporary solutions, workarounds or problem-avoiding restrictions in the Youmie-Service. If any part of the Youmie-Service was developed at the customer's request, Youmie may charge the customer for the costs of correction at its usual rates. Youmie is never obliged to remedy imperfections other than those referred to in this article.

2. Youmie does not warrant that the Youmie-Service will always be adapted in a timely manner to changes in relevant laws and regulations.

Article 23 – Payment processing

1. For certain functionalities within the Youmie-Service, Youmie uses payment services of third parties (collectively 'payment partners'). When these functionalities are used, transactions are concluded via the payment infrastructure of those payment partners, whereby the customer is directly bound by the applicable rates and terms of the relevant payment partner.
2. In addition to the transaction costs of the payment partner, Youmie is entitled to charge costs for the processing activities it performs. The applicable costs shall be made known to the customer prior to the transaction.
3. Youmie is not liable for disruptions, delays or errors in payment processing resulting from the services of payment partners.

Article 24 – Support

If Youmie's services under the agreement also include support for users and/or administrators of the Youmie-Service, Youmie shall provide advice online, by telephone or by email on the use and functioning of the Youmie-Service. The customer shall describe support requests as completely and in as much detail as possible so that Youmie is able to respond adequately. Any arrangements regarding service levels in respect of support shall be set out in a Service Level Agreement (SLA).

Article 25 – Additional provisions

Section IV (hosting services) applies mutatis mutandis to the Youmie-Service. Where Section IV refers to a 'hosting service' or 'hosted service', this shall in that case be read as a reference to the 'Youmie-Service'.

Section III. Software development

The provisions set out in this Section III apply, in addition to the general provisions set out in Section I, where Youmie designs, develops and/or installs software, apps, websites and related data(bases) and documentation for the customer, including custom functionality for the Youmie-Service.

Article 26 – Specifications

Development shall in all cases take place on the basis of an agreement for services. Youmie shall develop the software with due care, taking into account the expressly agreed specifications.

Article 27 – Acceptance

If the parties have not agreed on an acceptance test, the customer accepts the software in the condition in which it is at the time of delivery ('as is, where is'), and therefore with all visible and hidden errors and defects, without prejudice to Youmie's obligations as referred to in article 28.

Article 28 - Warranty

Youmie shall use its best efforts to remedy errors in the software within a reasonable period if such errors have been reported to Youmie in writing with a detailed description within three months after acceptance. Youmie does not warrant that the software is suitable for the customer's actual and/or intended use. Nor does Youmie warrant that the software will operate without interruption and/or that all errors will always be corrected. The remedy shall be performed free of charge, unless the software was developed other than for a fixed price, in which case Youmie shall charge the customer for the costs of remedy at its usual rates.

Section IV. Hosting

The provisions set out in this Section IV apply, in addition to the general provisions set out in Section I, where Youmie provides services to the customer in the field of hosting, such as making an application or website accessible via the World Wide Web, providing disk space on a server and/or providing internet connectivity.

Article 29 – Hosting services

1. All use of disk space, data traffic and other load on systems and infrastructure is limited to the maxima agreed between the parties. Data traffic not used by the customer in a given period cannot be carried forward to a subsequent period. If the agreed maxima are exceeded, Youmie may charge an additional fee in accordance with the applicable standard rates.
2. Youmie may temporarily take the hosting service wholly or partly out of use for preventive, corrective or adaptive maintenance. Youmie shall not allow the downtime to last longer than necessary and shall, where possible, schedule it at times when the hosting service is generally used least intensively. Any arrangements regarding minimum availability shall be set out in a Service Level Agreement (SLA).

Article 30 – Acceptable use

1. The customer shall at all times act with due care and not unlawfully towards third parties. The customer warrants that it will only enter data into the hosted service that: (i) is not unlawful or discriminatory and does not incite violence; (ii) does not infringe any proprietary rights, including but not limited to copyrights, trademark rights or trade secrets, of third parties; (iii) does not infringe the privacy of third parties; (iv) does not contain or install viruses, worms, malware, Trojan horses or other harmful or destructive content; and (v) is not spam and does not otherwise promote or facilitate unlawful acts.
2. The customer indemnifies Youmie against any third-party claim based on the allegation that data hosted by Youmie on the customer's instructions infringes a right of that third party.

Article 31 – Notice and takedown

1. In order to avoid liability towards third parties or to limit the consequences thereof, Youmie is at all times entitled to take measures. The customer shall remove its data from Youmie's systems immediately upon Youmie's first written request, failing which Youmie shall be entitled to remove the data itself or make access to it impossible. Youmie is furthermore entitled, in the event of a breach or imminent breach of article 30.1, to take measures immediately and without prior notice, including revoking or restricting the customer's access rights, without prejudice to all other remedies

available to Youmie under the agreement and the law. A breach of article 30.1 by the customer justifies extrajudicial termination for cause (*ontbinding*) of the agreement by Youmie.

2. Youmie cannot be required to form an opinion on the merits of claims by third parties or of the customer's defence, or to become involved in any way in a dispute between a third party and the customer. The customer shall address the matter with the relevant third party.

Section V. Advertisements

The provisions set out in this Section V apply, in addition to the general provisions set out in Section I, where Youmie places advertisements in the Youmie-Service. In this Section V, the customer making advertising space available is referred to as the 'association' and the customer advertising is referred to as the 'advertiser'. In this context, an 'advertisement' means any commercial communication of an advertiser, such as banners, deals, sponsored messages, vacancies, promotional pages and similar communications.

Part A – Association

Article 32 – Subject matter
Youmie may agree with the association that the association will make advertising space available in its environment within the Youmie-Service. Youmie shall fill the relevant advertising space, taking into account the specifications expressly agreed between the parties.

Article 33 – Warranty
Youmie shall use its best efforts to fill the agreed advertising space with advertisements but is not obliged to achieve a minimum fill rate, a minimum number of placements or a minimum advertising revenue.

Article 34 – Fee
The association's fee for making advertising space available shall never exceed the advertising revenues actually realised by Youmie from the placement of advertisements in the association's environment within the Youmie-Service.

Article 35 – Payment
1. Unless the parties agree otherwise in writing, seventy percent (70%) of the fee shall be paid in cash per calendar quarter to the bank account specified by the association. The remaining thirty percent (30%) shall be made available as credit and may be used freely for functionalities and modules within the Youmie-Service. This credit expires one year after receipt.
2. For each calendar quarter, Youmie shall provide the association with a statement substantiating the amount of the fee.
3. To the extent an invoice from the association is required for administrative processing, the association shall provide such invoice after receipt of the quarterly statement. Youmie shall pay a correctly issued invoice within thirty (30) days of receipt.

Part B – Advertiser

Article 36 – Subject matter
Youmie shall display the advertiser's advertisements within the Youmie-Service, taking into account the arrangements expressly agreed between the parties regarding the nature, content and number of advertisements, the campaign period and the target audience to be reached. For the display of advertisements, the advertiser shall owe Youmie a fee, as further agreed between the parties.

Article 37 – Delivery of materials
The advertiser shall provide all required materials in a timely and complete manner, including images, copy, links and any promotional terms and conditions, in accordance with the specifications indicated by Youmie. Youmie may refuse to process advertising materials that have not been supplied in accordance with the delivery specifications or may adapt such materials so that they comply with the delivery specifications and charge the associated costs to the advertiser.

Article 38 – Permitted advertisements
1. The advertiser is responsible for the content of the advertisement. The advertiser warrants that each advertisement: (i) complies with applicable laws and regulations; (ii) complies with applicable codes of conduct, such as the Dutch Advertising Code; (iii) is not unfair or misleading; (iv) does not infringe any proprietary rights, including but not limited to copyrights, trademark rights or trade secrets, of third parties; (v) does not infringe the privacy of third parties; (vi) does not contain or install viruses, worms, malware, Trojan horses or other harmful or destructive content; and (vii) does not promote or facilitate any other unlawful acts.
2. The advertiser may only place advertisements relating to its own business, or to that of a group company of the advertiser within the meaning of article 2:24b of the Dutch Civil Code. The advertiser is not permitted to resell advertising space made available to it under the agreement or otherwise make it available to third parties.
3. Youmie has the right to refuse or remove advertisements that, in Youmie's reasonable opinion, are contrary to the above rules.
4. Youmie may also refuse or remove advertisements if, in Youmie's opinion, they are not appropriate for the Youmie-Service, the target audience or user trust. In any event, advertisements may be refused if they concern tobacco, drugs, weapons, adult content, political campaigns, religious recruitment, discriminatory statements, gambling or other sensitive or legally restricted categories of products or services.
5. The advertiser indemnifies Youmie against any third-party claim based on the allegation that an advertisement of the advertiser infringes a right of that third party.

Article 39 – License
1. The advertiser grants Youmie a license to publish and distribute the submitted advertisement within the Youmie-Service and to perform all supporting acts necessary for that purpose.
2. The advertiser agrees that Youmie may index, cache, analyse or crawl the advertiser's domains, web pages or URLs related to the submitted advertisement for the purpose of developing, improving and securing the Youmie-Service.

3. The license to display the advertisement ends once Youmie has completed the assignment to make the submitted advertisement available within the Youmie-Service for the agreed period. If users have interacted with the advertisement, the advertisement may remain present within the Youmie-Service, for example because it has been shared in a message by a user.

Article 40 – Warranties

1. Youmie shall determine the size, placement, positioning and technical implementation of advertisements, unless the parties have made specific arrangements in this respect.
2. Youmie gives no warranties as to the reach or performance of advertisements, such as the number of people who will see an advertisement or the number of clicks an advertisement will receive. Nor does Youmie warrant that the advertiser will achieve its business objectives with the campaign, such as generating more revenue or attracting new employees.
3. Youmie does not warrant that the Youmie-Service on which the advertisements are offered will be available at all times.
4. Youmie has no influence over the manner in which advertisements are clicked. Youmie is not responsible for any fraudulent or automated click activity that may affect the costs of running advertisements.

Article 41 - Exceptional situations

1. In certain circumstances, Youmie may suspend regular communications in all or part of the Youmie-Service. Advertisements will then temporarily not be visible in the relevant part of the Youmie-Service. This shall occur only in exceptional situations, such as following the death of a member of an association or in the event of serious incidents or other sensitive internal circumstances.
2. If the suspension referred to in the preceding paragraph lasts no longer than five calendar days, the advertiser shall not be entitled to any refund, discount or extension of the campaign. If the suspension lasts longer than five calendar days, the parties shall consult on a reasonable solution, such as extending the campaign, placement with another association or a partial credit.

Article 42 – Reports and tools

1. Youmie shall provide the advertiser with a simple report on advertisement performance at least once per quarter, in a format to be determined by Youmie.
2. Youmie shall not provide the advertiser with personal data, individual user profiles, or membership lists of associations or communities.
3. If the advertiser wishes to use tracking links, pixels, cookies or similar technologies when placing advertisements, the advertiser must notify Youmie of this in advance in writing. Youmie may refuse the use of such technologies for technical, legal or commercial reasons. The advertiser is responsible for the lawfulness of the technologies it uses and for the processing of data after an advertisement is clicked.
4. Youmie may from time to time offer users tools for transparency in relation to advertisements. Information linked to an advertisement may be included in these tools.