

# Hlessons | General Terms and Conditions

Version 1.0 | April 2022

These are the General Terms and Conditions of **Hlessons**, established at Trasmolenlaan 12 in Woerden, registered with the Chamber of Commerce under registration number 77238044 and available online at <https://www.hlessons.nl/> (hereinafter referred to as: '**the Supplier**').

These General Terms and Conditions apply to any Agreement for the provision of Services the Supplier enters into with a natural person who or legal entities that purchases the Services (hereinafter referred to as: '**the Customer**').

the Supplier and the Customer are hereinafter jointly referred to as the '**Parties**' and individually as the '**Party**';

Within the framework of the Supplier's Services, personal data may be processed. The Privacy Statement to which such processing is subject forms an integral part of these General Terms and Conditions.

## Article 1. Definitions

In these general terms and conditions, all capitalised terms have the meanings set out in this article, both in their singular forms and in their plural forms.

- 1.1. **Account:** every user interface that enables the Customer to use, manage, and configure the Services or certain aspects of the Services after entering login details, as well as the files that have been stored for and by the Customer themselves.
- 1.2. **Website:** the Supplier's website, which can be found via the domain referred to in the preamble of these General Terms and Conditions.
- 1.3. **General Terms and Conditions:** the provisions set out in this document.
- 1.4. **Consumer:** a Customer who, rather than in the course of a profession or business, acts in his capacity as a natural person.
- 1.5. **Services:** the products and/or services that the Supplier will provide the Customer pursuant to an Agreement.
- 1.6. **Intellectual Property Rights:** all intellectual property rights and related rights, including but not limited to copyright, trademark rights, design rights, neighbouring rights and patent rights.
- 1.7. **Customer Data:** all data stored by the Customer via or using the Services, or that the Customer otherwise provides to the Supplier.
- 1.8. **Personal Data** Any data concerning an identified or identifiable natural person;
- 1.9. **Materials:** all works, such as websites and applications/web applications, software, corporate identities, logos, flyers, brochures, leaflets, lettering, advertisements, marketing and/or communication plans, drafts, images, texts, sketches, documentation, consultancy, reports and other creations of the mind, as well as the preparatory material thereof and the data carriers (whether or not decoded) on which the Materials are stored.
- 1.10. **Agreement:** every agreement between the Supplier and the Customer pursuant to which the Supplier provides Services to the Customer and of which these General Terms and Conditions form an integral part.

## **Article 2. Applicability and priority**

- 2.1. These General Terms and Conditions will apply to every offer or quotation made by the Supplier with regard to Services and will form an integral part of every Agreement concerning the provision thereof. This expressly also applies to any future quotations, offers or Agreements in connection with which these General Terms and Conditions have not been provided to the Customer again.
- 2.2. Provisions or terms and conditions stipulated by the Customer or other further arrangements between the Supplier and the Customer that differ from or do not appear in these General Terms and Conditions will only be binding upon the Supplier if and insofar as the Supplier has expressly accepted these in writing.
- 2.3. Application of any general purchase conditions or other terms and conditions of the Customer is expressly excluded.
- 2.4. Insofar as these are applicable, provisions pertaining to specific Services will, in the event of conflict, prevail over the general provisions pertaining to all services.
- 2.5. In the event of conflict between the applicable documents, the below ranking order will apply. In all other respects, the applicability of the documents is mutually complementary.
  - a. Agreement;
  - b. supplementary conditions (if applicable);
  - c. General Terms and Conditions;
- 2.6. These General Terms and Conditions will take the place of any general or other terms and conditions that were agreed upon with regard to the provision of the Services at an earlier stage. The same applies to any Agreements that have already been entered into.

## **Article 3. Formation of the Agreement**

- 3.1. The Customer may use the Website to apply for the Services straight away. The Customer may also request a quotation without obligation. The Agreement is formed when the Supplier sends the email (whether or not that is generated automatically) confirming that the application has been accepted, or the Customer sends an email confirming its acceptance of the quotation. Unless otherwise agreed in writing, this moment is also considered the commencement date for the Services.
- 3.2. In derogation from the provisions in Section 6:225(2) of the Dutch Civil Code, the Supplier is not bound by any derogating acceptance by the Customer of an offer from the Supplier.
- 3.3. The Supplier is not obliged to accept a request or an acceptance. Grounds for refusal may include, without limitation:
  - a. the absence of any required information or documentation that is required for entry into the Agreement, which at least includes a copy of a valid, legal identification document and, in the event of representation, sufficient proof of the authority to represent, such as an extract from the Chamber of Commerce or a duly signed power of attorney;
  - b. errors in the quotation submitted;
  - c. the Customer being legally incompetent.
- 3.4. In the event that the Supplier rejects an application or acceptance, the Supplier will – in principle – inform the Customer thereof within fourteen (14) days of receipt of the application or acceptance, in writing or electronically. Refusal by or absence of a response

from the Supplier will under no circumstances lead to liability for any direct or indirect loss that may be suffered as a result.

- 3.5. If the Customer is a Consumer, the Customer will have a reflection period of fourteen (14) days from the moment at which the Agreement is formed in which he may cancel the Agreement, in writing. The Customer can exercise his right of withdrawal by cancelling the product within the reflection period. In that case the Customer will only be charged for the period the Agreement started until the Agreement was cancelled.
- 3.6. After performance of the Agreement, the right of withdrawal does not apply to Agreements for the provision of Services, if
  - a. the performance has commenced with the Customer's express prior consent; and
  - b. the Customer has expressly waived his right of termination as soon as the Supplier performs the Agreement.

#### **Article 4. Performance of the Agreement**

- 4.1. After its formation, the Supplier will make every effort to perform the Agreement to the best of its ability and with due care and professional competence.
- 4.2. Any delivery periods indicated by the Supplier are only indicative in nature, except if and insofar as this is expressly determined otherwise in writing.
- 4.3. The Customer must provide to the Supplier any support that may be required and desirable to enable the correct and timely delivery of the Services. The Customer must in any case provide the Supplier all the data and other information that the Supplier indicates are necessary, or that the Customer should reasonably be able to understand are required in the performance of the Agreement. The term within which the Supplier is required to perform the Agreement will not commence until all the data the Supplier has requested and requires have been received.
- 4.4. The Customer will render the Supplier every reasonable assistance in the performance of the Agreement.

#### **Article 5. Accounts**

- 5.1. If this is part of the Services, the Supplier will – after formation of the Agreement – give the Customer access to an Account by providing login details, or by giving the Customer the option of creating its own login details.
- 5.2. All Accounts and the associated login details are strictly confidential and may not be shared with third parties.
- 5.3. All actions that are performed using the Customer's Account or an Account created by the Customer will be deemed to take place under the Customer's responsibility and at the Customer's risk. If login details of an Account have been lost or leaked, or the Customer suspects that or may reasonably be expected to suspect or know that an Account is being misused, the Customer must immediately take any measures that may be required or desirable to prevent (further) misuse. These measures may for instance consist of changing the login details or blocking the Account. In addition, the Customer must immediately inform the Supplier, so that it can take additional measures (if any).

#### **Article 6. Rules of use**

- 6.1. The Customer is forbidden from using the Services in breach of Dutch law or other laws and regulations to which the Customer or the Supplier is subject and to infringe the rights of other parties.

## **Article 7. Availability, maintenance and support**

- 7.1. The Supplier will make every effort to ensure good and uninterrupted availability of the Services to realise access to the details the Customer has stored through these. However, the Supplier provides no guarantee with regard to the quality or availability.
- 7.2. The performance of maintenance, whether or not as part of the Services provided, may temporarily cause the Services to be unavailable or restricted. If the Supplier foresees that any specific maintenance will result in full or partial non-availability, the Supplier will make every effort to carry out the work at times when the use of the Services is limited.
- 7.3. The Supplier will make every effort to announce any maintenance work at least two days in advance, whether or not it is performed as part of the Services provided. Emergency maintenance may however be performed at any time, even without prior announcement thereof to the Customer.
- 7.4. The Supplier will keep itself available for a reasonable level of remote customer support.
- 7.5. The Supplier will make every effort to respond to any request for support as soon as possible, but cannot provide any guarantees in respect thereof.

## **Article 8. Intellectual Property**

- 8.1. All Intellectual Property Rights to all the Materials developed or made available by the Supplier as part of the Agreement are vested exclusively in the Supplier or its licensors.
- 8.2. The Customer will only acquire the user rights and powers expressly assigned in writing in these General Terms and Conditions, the Agreement or otherwise, and the Customer may not reproduce these Materials or make these public in any other respect. An exception to the above will be made if its failure to assign such right to the Customer in an explicit manner was indisputably a mistake on the Supplier's part.
- 8.3. Unless and insofar as this has been otherwise agreed in writing, the Customer is forbidden from removing or modifying any references relating to Intellectual Property Rights from Materials of the Supplier or its licensors.
- 8.4. The Supplier is permitted to take technical measures to protect its Materials. If the Supplier has protected these Materials using technical safeguards, the Customer is forbidden from removing or circumventing such protection, except if and insofar as mandatory law provides otherwise.

## **Article 9. Customer Data**

- 9.1. All rights to Customer Data, including any Intellectual Property Rights to which these are subject, will be vested in the Customer. The Supplier will not claim any ownership thereof.
- 9.2. The Customer hereby grants the Supplier a limited right of use to use the Customer Data during the term of the Agreement insofar as this is necessary for the provision of the Services.
- 9.3. If the Account is terminated, the Supplier will – regardless of the reason for such termination – destroy or delete the Customer Data as soon as possible.

## **Article 10. Prices**

- 10.1. Unless expressly otherwise stated in respect of any amount, all prices stated by the Supplier are inclusive of turnover tax (VAT) and other duties levied by the government.
- 10.2. If a price is based on information provided by the Customer and the information proves to be incorrect, the Supplier is authorised to adjust the prices accordingly, even after the Agreement has already been formed.

- 10.3.** The Supplier is authorised to increase the prices referred to in this Agreement on an annual basis, by a maximum of 5%, or on the basis of the relevant CBS price index, without this resulting in the Customer being entitled to terminate the Agreement.
- 10.4.** In derogation from the preceding paragraphs of this article, the Customer will have the option of terminating the agreement if the prices are increased within three months of entry into the Agreement and the Customer is a Consumer.
- 10.5.** Any price adjustments that do not take place within the framework of Article 10.3. are subject to the same conditions and procedures as apply to changes to the Services and these General Terms and Conditions. If the Supplier wishes to reduce the applicable prices, the Supplier is authorised to implement this reduction with immediate effect, without this resulting in the Customer being entitled to terminate the Agreement.

## **Article 11. Payment**

- 11.1.** The Supplier will invoice the Customer for the amounts owed by the Customer. The Supplier may issue electronic invoices. The Supplier is authorised to periodically invoice amounts owed prior to delivery of the Services.
- 11.2.** Unless otherwise agreed in writing, invoices are subject to a payment term of 14 days.
- 11.3.** If, after expiry of the payment term, the Customer has not paid an invoice in full, it will automatically be in default without notice of default being required.
- 11.4.** Notwithstanding the above, all costs associated with the collection of outstanding amounts – both judicial and extrajudicial (including lawyer's fees, enforcement agent's fees and collection agency fees) – will be at the Customer's expense without notice of default being required in respect thereof.
- 11.5.** The Customer may not rely on suspension or deduction.
- 11.6.** The provisions contained in Article 11.3. through Article 11.5. do not apply if and insofar as the Customer is a Consumer.
- 11.7.** If the Customer is in default, this will have the following consequences:
- a.** statutory interest will be owed on the outstanding amount;
  - b.** the Services may be made inaccessible without further warning, until any outstanding amounts, interest and such have been paid.
- 11.8.** All the Supplier's claims will be immediately due and payable if the Customer is declared bankrupt, the Customer applies for or is granted a moratorium, the Customer's activities are ceased, or its business is wound up.

## **Article 12. Liability**

- 12.1.** Within the framework of the formation or performance of the Agreement, the Supplier will not be liable, except in the circumstances referred to below, and to a maximum of the specified limits.
- 12.2.** For each event or series of related events, the Supplier's total liability for direct loss incurred by the Customer as a result of an attributable failure on the Supplier's part to comply with its obligations under the Agreement, which expressly includes any failure to comply with a guarantee obligation agreed with the Customer, or an unlawful act on the part of the Supplier, its employees or third parties engaged by the Supplier, is limited to a sum equal to the total of the payments (excluding VAT) the Customer has made under this Agreement in the last six (6) months. Under no circumstances, however, will the total compensation for direct loss exceed a sum of ten thousand (10,000) euros (excluding VAT).
- 12.3.** The Supplier's liability for an attributable failure to comply with its obligations under the Agreement will only arise if the Customer gives the Supplier proper notice of default in

writing without delay, giving the Supplier a reasonable period to remedy its failure, and the Supplier continues to fail attributable to comply with its obligations even after that period. The notice of default must contain a description of the non-compliance in as much detail as possible so that the Supplier is able to put forward an adequate response. The notice of default must be delivered to the Supplier within 30 days of the discovery.

- 12.4. The Supplier is expressly not liable for any indirect loss, which includes, without limitation, consequential loss, loss of profit, damage to one's image, lost savings and loss due to business interruption.
- 12.5. The exclusions and limitations referred to in this Article 12. cease to apply if and to the extent the loss is a consequence of an intentional act or wilful recklessness on the part of the Supplier's management.
- 12.6. Any limitation of liability as contained in these General Terms and Conditions does not apply in dealings with Consumers. In dealings with Consumers, the statutory provisions on liability apply.
- 12.7. The Customer is liable towards the Supplier for loss arising as a result of an attributable error or failure on the Customer's part. The Customer indemnifies the Supplier against claims concerning non-compliance with the Agreement while the Services are used by or with the consent of the Customer.

### **Article 13. Force majeure**

- 13.1. The Supplier will not be obliged to comply with the Agreement if compliance is prevented as a result of force majeure. Any liquidity problems on the Customer's part expressly do not qualify as force majeure.
- 13.2. Force majeure affecting the Supplier must be understood to mean any circumstance beyond the Supplier's control preventing it from complying with some or all of its obligations towards the Customer, or in connection with which the Supplier cannot reasonably be expected to comply with such obligations, regardless of whether such circumstance should have been foreseen when the Agreement was entered into. Such circumstances will in any case include:
  - a. emergencies (such as extreme weather conditions, fire and lightning strikes);
  - b. breakdowns in the telecommunications infrastructure and internet that are beyond the Supplier's control;
  - c. failures on the part of the Supplier's own suppliers that the Supplier could not have foreseen and for which the Supplier cannot hold the relevant suppliers liable, for example because the relevant supplier was also faced with a force majeure situation;
  - d. government measures;
  - e. unavailability of staff (due to illness or otherwise);
  - f. general transport problems;
  - g. natural disasters; and
  - h. strikes, wars, terrorist acts and internal civil commotion.
- 13.3. In the event of force majeure, the Customer will not be entitled to any compensation (such as for loss).
- 13.4. If the force majeure situation last longer than 3 months, either Party will be entitled to terminate the Agreement in writing, without being obliged to pay the other Party any compensation.

### **Article 14. Duration and termination**

- 14.1.** Unless otherwise agreed in writing, the initial term of the Agreement will be one (1) year. The Parties are not permitted to terminate the Agreement early, save for those cases for which an exception is expressly made in these General Terms and Conditions or in other parts of the Agreement.
- 14.2.** If the Customer is not a Consumer, the Agreement will be automatically and tacitly renewed upon expiry, by additional terms that are equal to the initial term, unless, at least one (1) month before expiry, one Party indicates to the other Party, in writing, that it does not wish to renew the Agreement.
- 14.3.** If the Customer is a Consumer, the Agreement will, upon expiry of the initial term, be converted into an Agreement for an indefinite period of time. In such case, the Customer may, after such conversion, terminate the relevant Agreement for an indefinite period of time at any time, in writing, subject to a notice period of four (4) days.
- 14.4.** The Supplier will be entitled to suspend the Agreement with immediate effect (in full or in part) or terminate or dissolve the Agreement with immediate effect (in full or in part) if:
- a.** the Customer fails to comply with its obligations pursuant to the Agreement or fails to comply with these in time, and does not remedy the failures within a reasonable period of being given notice of default. Prior notice of default is however not required in those cases where default arises by operation of law;
  - b.** the Customer petitions for its liquidation/files for bankruptcy or is declared bankrupt/put into liquidation, applies for or is granted a moratorium, the Customer's business is liquidated, or its business activities are discontinued;
  - c.** due to delay on the Customer's side, the Supplier can no longer be required to comply with the Agreement under the terms and conditions originally agreed; or
  - d.** circumstances arise due to which performance of the Agreement is rendered impossible, or due to which the Supplier cannot be reasonably required to maintain the Agreement unchanged.
- 14.5.** In the above mentioned circumstances, the right to suspension will apply to all Agreements with the Customer simultaneously, even if the Customer is only in default with regard to one Agreement, and without prejudice to the Supplier's right to compensation of loss, lost profit and interest.
- 14.6.** In the event that the Agreement is dissolved, the amounts already invoiced for the performance already delivered will remain payable without any obligation to nullify. In the event that the Customer terminates the Agreement, the Customer may only terminate that portion of the Agreement that the Supplier has not yet performed.
- 14.7.** If the Supplier suspends compliance with the obligations, this will not affect its statutory rights or rights under the Agreement, including the right to payment for the Services that it has suspended. This does not apply if the Customer is a Consumer. In such case, the statutory rights of suspension apply.
- 14.8.** If a termination is attributable to the Customer, the Supplier is entitled to compensation of any loss that arises as a result thereof, whether directly or indirectly.
- 14.9.** If the Agreement is terminated or set aside, the Supplier's claims against the Customer will become immediately due and payable.
- 14.10.** If the Customer can deactivate, switch off or remove certain (parts of) Services itself, the Customer itself will be responsible for doing so before the date on which the Agreement ends. If the Customer fails to do this, the Supplier can charge costs for keeping the Services available and the Agreement will be deemed to have been extended for the period during which the Services are used. The Supplier will only deactivate, switch off or remove the Services concerned at the Customer's express request.

## **Article 15. Change**

- 15.1.** The Supplier reserves the right to amend or supplement the Services and these General Terms and Conditions. Amendments also apply to Agreements already entered into, subject to a notice period of one (1) month following the announcement of such amendment. Any amendments will be announced in writing.
- 15.2.** If the Customer does not wish to accept an amendment, the Customer may lodge a written objection within fourteen (14) days of the announcement. If the Supplier decides to proceed with the amendment despite the Customer's objection, the Customer may terminate the Agreement, in writing, with effect from and no later than the date on which the amendment takes effect.
- 15.3.** The procedure described above does not apply to amendments of minor significance, amendments made pursuant to the law and amendments that benefit the Customer. The Supplier may implement such amendments unilaterally and with immediate effect.

## **Article 16. Choice of law and forum**

- 16.1.** The Agreement is subject to Dutch law. If the Customer is a Consumer, he will be protected by mandatory statutory provisions that apply in the Consumer's residence.
- 16.2.** Insofar as mandatory statutory provisions do not prescribe otherwise, any disputes that may arise from the Agreement will be submitted to the competent Dutch court in the district in which the Supplier has its offices.

## **Article 17. Miscellaneous provisions**

- 17.1.** If any provision in the Agreement proves to be void, this will not affect the validity of the entire Agreement. In such case, the parties will adopt a new provision or new provisions to replace any such provisions, which will reflect the purport of the original Agreement and the General Terms and Conditions as much as legally possible.
- 17.2.** Any information and communication on the Website, including price indications, may be subject to programming and typing errors. In the event of inconsistencies between the Website and the Agreement, the Agreement will prevail.
- 17.3.** The log files and other administrative records of the Supplier, whether electronic or not, will constitute conclusive evidence of the Supplier's statements, and the version of any electronic or other communication received or stored by the Supplier will be considered authentic, subject to evidence to the contrary to be submitted by the Customer. This provision will only apply if the Customer is a Consumer.
- 17.4.** At all times, the Parties will inform each other in writing without delay of any changes in their names, postal addresses, email addresses and telephone numbers, as well as – if requested – bank and giro account numbers.
- 17.5.** Where, in the Agreement, reference is made to 'written/in writing', this must be understood to include email and, where the Services include access to a customer portal through which the Parties can exchange messages, that customer portal, provided that the identity of the sender and the integrity of the email messages or the messages within the customer portal can be sufficiently established.
- 17.6.** Subject to mandatory statutory provisions, all legal claims of the Customer under this Agreement will lapse after the expiry of one year, calculated from the date on which compliance with the obligations arising from the Agreement between the Parties became exigible. This provision will not affect the standard limitation period for the Supplier's claims.

- 17.7.** Each Party is only authorised to transfer its rights and obligations under this Agreement to a third party with the other Party's prior written consent. Such consent is not required, however, in the event of a company takeover or an acquisition of the majority of the shares of the relevant Party.