

# Terms and Conditions Markeys – INT



## **Article 1 – Definitions**

In the terms and conditions, the following definitions shall apply:

- Terms and Conditions: These Terms and Conditions.
- Services: The services provided by Markeys such as legal services related to the development, registration, and monitoring of trademarks, designs, trade names, and domain names.
- Intellectual Property Rights: All intellectual property rights and related rights, such as copyright, trademark, patent, design, trade name, database, and neighbouring rights.
- Markeys: Markeys branding B.V., located in Enschede at Voortsweg 131, 7523 CD, Chamber of Commerce no. 08140218.
- Client: The natural person or entity with whom Markeys has concluded an Agreement.
- Agreement: The agreement between Markeys and the Client with regard to the Services to be provided by Markeys to the Client.
- Parties: Every party to the Agreement.

## **Article 2 - General**

These Terms and Conditions apply to all Agreements and related (legal) acts entered into by the Client with Markeys. The applicability of terms and conditions of the Client is expressly rejected by Markeys. Once the Terms and Conditions apply, they also apply without further declaration of applicability, to new agreements between the parties and to all extra-contractual relations between the parties, in particular torts. Amendments to the Terms and Conditions by the Client can only be agreed in writing and apply exclusively to the relevant Agreement.

## **Article 3 – Quotations**

All quotations from Markeys to the Client are, in principle, without obligation unless a specific term for acceptance is specified in the quotation. Price changes due to incorrect information provided by the Client, exchange rate fluctuations, statutory taxes, and expert fees are expressly reserved. If the Client decides not to use the Services of Markeys in the lead-up to an agreement but uses the data or information provided by Markeys, Markeys reserves the right to charge the hours as well as the costs of potential purchased work and materials to the Client based on subsequent calculation.

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## **Article 4 - Conclusion of the Agreement**

The Agreement is being established by the Client's written or electronic acceptance of Markeys' offer. If the Client confirms the order for the Agreement otherwise than in writing or electronically, the Agreement will be formed as soon as Markeys confirms the order for the Agreement to the Client in writing or electronically. Agreements with respect to (online) monitoring subscriptions with respect to domain names, trade names and trademarks are entered into until December 31 of that calendar year. Unless otherwise agreed in writing or electronically. All (online) monitoring subscriptions relating to domain names, trade names and trademarks started during a calendar year are automatically renewed, unless the Parties expressly agree otherwise in writing or by electronic means. Each of the Parties may terminate the (online) monitoring subscription for domain names, trade names and trademarks by giving one month's written or electronic notice at the end of the calendar year, or at least before December 1 of that calendar year. Interim termination is not possible. Markeys reserves the right to make price adjustments (as referred to in article 7) following a tacit renewal of the Agreement.

## **Article 5 – Execution of Assignments**

Markeys will endeavor to execute the agreement with the Client with the required care and expertise. However, Markeys does not guarantee the achievement of the intended result. If a term for the performance of the Services has been agreed upon or specified, it is never a strict deadline. In case of exceeding such a term, the Client must give Markeys written notice of default. A reasonable period must then be provided to still fulfill the Agreement. Markeys is authorized to engage third parties for the execution of the assignment, the costs of which can be charged to the Client. The Client's decision to use or apply a trademark, design, trade name, or domain name, as well as any other decisions based on research or advice from Markeys, are entirely made at the Client's own expense and risk. Markeys is not obliged to proactively investigate or advise on whether a trademark, design, trade name, and/or domain name is available, permissible, protectable, and/or usable. The Client's decision to oppose the use and/or registration of a third-party's trademark, design, trade name, or domain name is made entirely at the Client's own expense and risk. Any research and/or advice conducted by Markeys solely pertains to trademarks, designs, trade names, and domain names as per the Client's assignment, which are registered in the relevant registers and made public by the respective authorities. In case of an assignment to monitor a domain name, trade names, or trademarks, Markeys will notify the Client when a third party applies for a domain name, trade name, or trademark that may infringe on the Client's (trademark) rights. Markeys does not guarantee that such warnings are comprehensive. Markeys cannot be held liable if it fails to notify the Client of a potentially conflicting trademark. When requested by the Client to register or renew a trademark, design, trade name, or domain name in the relevant register, Markeys' task is limited to (having) preparing the necessary documents and (having) submitting them to the competent authorities. The Client is solely responsible for the timely and proper provision of all documents, prints, and information requested by Markeys. The Client is responsible for the timely renewal of registrations, payment of any taxes, and/or submission of declarations. Markeys will

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notify the Client at the (email) address provided by the Client if the renewal term for a trademark, domain name, and/or design registration, payment of any taxes, and/or submission of declarations is approaching. The Client guarantees the accuracy and completeness of the information provided by or on behalf of the Client to Markeys. Markeys indicates which information or documents need to be provided by the Client within the scope of an assignment. In the absence of clear instructions from the Client, Markeys is free to act at its own discretion in situations requiring a response and where postponement of a term is not possible, at the Client's expense and risk.

## **Article 6 - Remuneration**

Orders will be honored on the basis of an offer in which the activities and related costs are described. All quotations are exclusive of VAT and 4% agency fees. Additional costs arising from interim changes to the assignment by the Client or unforeseen circumstances will be charged in the final invoice. If no quotation is given, Markeys will charge a fee for its work, based in principle on an hourly rate, as well as any third party costs incurred. Markeys has the right to change and charge the hourly rate and fees it charges in the interim, provided such changes are notified to the Client in advance. Markeys is always entitled to require the Client to make an advance payment on the fee.

## **Article 7 - Prices and payment**

All prices quoted by Markeys are based on hours worked, purchase costs and other cost factors, excluding VAT, excluding 4% agency fees. Price changes due to currency changes, statutory taxes and expert fees are expressly reserved. Markeys is entitled to require a deposit for the Services to be provided when entering into the Agreement with Client. Payment shall be made only in cash or no later than 14 days (counting from the invoice date) to account number IBAN NL29ABNA0472150642 / BIC Number ABNANL2A / Bank ABN AMRO BANK N.V. (Amsterdam). If payment is made by any means other than by cash or transfer to Markeys' bank account (e.g. payment by credit card or check) and bank charges have been charged to Markeys, the Client must reimburse these bank charges to Markeys. If the payment term of 14 days is exceeded, Markeys must therefore give notice of default to Client in writing or electronically. If the payment term of 30 days (counting from the invoice date) is exceeded, interest of 8% for commercial transactions and 2% per (part of a) month for non-commercial transactions will be charged. All collection costs to be incurred shall be borne by Client. Extrajudicial collection costs shall be at least 15% of the total amount due. Interest and collection costs will be charged primarily. Markeys may suspend the execution of all work if the Client is in default with regard to one or more payments or other obligations. In case it has been agreed on that Intellectual Property Rights to results of the Services will be transferred, this transfer will take place under the suspensive condition that the fee agreed in this respect has been paid by the Client.

## **Article 8 - Dissolution**

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If the Client fails to comply with any (payment) obligation under an Agreement entered into with Markeys, as well as in the event of (a request for) a suspension of payments, bankruptcy, receivership or liquidation of the Client's business, Markeys has the right to dissolve the Agreement or any part thereof without judicial intervention and without notice of default by a single declaration. Markeys shall never be liable for damages in the event of dissolution. As a result of dissolution, mutual claims will become immediately due and payable. If, at the time of dissolution, the Client has already received performance in execution of the Agreement, such performance and the related payment obligations will not be subject to reversal, unless and to the extent Markeys is in default with respect to such performance. Amounts already invoiced by Markeys before the dissolution in connection with what Markeys has already performed in execution of the Agreement shall remain due in full with due observance of the previous sentence and shall become immediately payable at the time of dissolution.

## **Article 10 - Liability**

Markeys shall not be liable for the consequences of the provision of inaccurate and/or incomplete data by Client (even in the case of provision in good faith by Client). The liability of Markeys (regardless of whether it arises from a shortcoming attributable to Markeys in the performance of the Agreement or from the law) is limited to compensation for damage that is a direct and exclusive result of intent or gross negligence on the part of Markeys . The liability of Markeys is in any case limited to a maximum of one time the price that the Client owes as a result of the Agreement for the work or performance in this regard for which Markeys has failed or in connection with which Markeys is liable under the law. with a maximum of twenty five hundred euros. The liability of Markeys for (consequential) damage to the Client, including fines, damage as a result of claims from third parties, damage as a result of adjusting corporate identity carriers, internet sites, damage to reputation and costs of deposit, is excluded. If damage occurs, Markeys and the Client will strive for an amicable settlement. In the event of a unresolvable conflict, the parties are free to take the matter to court. A claim for compensation for damages must be filed with Markeys no later than two months after the Client discovered or reasonably could have discovered the damages, failing which the right to compensation will lapse.

## **Article 11 - Intellectual property rights**

All Intellectual Property Rights to the results of Services (such as software, websites, data files, analyses, documentation, designs, methods, reports, advice, quotations, as well as preparatory materials thereof) performed in the context of the execution of an Agreement belong to Markeys. If the Services serve to develop a name and/or slogan, the Intellectual Property Rights of the name or slogan, unless the Parties expressly agree otherwise in writing or electronically, will be transferred to the Client provided that the relevant compensation in this regard has been paid by Client.

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## **Article 12 - Confidentiality**

Verbal, written or electronic information of confidential nature provided by the Parties in the context of the performance of the Services will, prior to entering into the Agreement, during the Agreement, and after termination of the Agreement, be kept secret for as long as necessary. In any event, information will be considered confidential if it is designated as such by either Party. Markeys and Client shall not use the confidential information for any purpose other than that for which it was provided by the other Party and shall not apply it in any way other than as indicated by the other Party.

## **Article 13 - Other**

Amendments and supplements to any provision in the Terms and Conditions shall only be valid if expressly accepted in writing by Markeys. These amendments and additions will only apply to that particular Agreement. If one or more provisions of the Agreement or Terms and Conditions shall prove to be invalid or unenforceable in whole or in part, they are hereby replaced by provisions to which this does not apply and which as far as possible govern the same as the invalid or unenforceable provision. To the extent necessary, the Parties shall consult in good faith as to the exact wording of such replacement provisions. In the event of any difference of opinion between the Parties regarding the content and/or scope of these Terms and Conditions, the Dutch version of the Terms and Conditions shall prevail and be binding.

## **Article 14 - Disputes and applicable law**

All Agreements concluded and/or actions performed between Markeys and the Client are exclusively governed by Dutch law. All disputes which may arise between the parties in connection with this Agreement shall be submitted exclusively to the competent court of the District Court of Overijssel, the Netherlands.

Enschede, May 15, 2024