



GENERAL TERMS AND CONDITIONS

OXYMA GROUP B.V.

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SECTION 1. GENERAL SECTION

These General Terms and Conditions consist of the present General section and one or more addenda. An addendum applicable between parties is integrally and inextricably related to the General section of these General Terms and Conditions as if the provisions from such addendum were included in this General section of these General Terms and Conditions. In the case of a contradiction between a provision in the General section and a provision in an addendum, the provision from the addendum shall apply. In the case of a contradiction between addenda the provision of the addendum most closely related to the nature of the services to which the Agreement relates shall apply, such at the discretion of Oxyma.

ARTICLE 1.1. DEFINITIONS

Definitions which are used in the General Terms and Conditions and/or in the Agreement, in the singular or in the plural, and starting with a capital letter shall have the meaning as defined in this article or in an addendum applicable between parties. Additional and/or deviating definitions may be included in the Agreement and/or SLA which will then apply to such relevant Agreement and/or SLA.

- 1.1.1. *Agreement*: agreement of which the General Terms and Conditions are an integral part.
- 1.1.2. *API*: application programming interface, functionality of software which can be used through the internet by Apps, Software and/or Websites.
- 1.1.3. *Apps*: software to be delivered by Oxyma which is specifically developed to be used on mobile devices (e.g. smartphones, tablets and wearables).
- 1.1.4. *Client*: Oxyma's other party in an Agreement.
- 1.1.5. *Discontinuity*: status in which one of the parties finds itself, either a petition for bankruptcy filed in good faith by the relevant party and/or another party, or being bankrupt, or a situation of a petition for suspension of payment filed in good faith, either by the relevant party and/or another party, or a suspension of payment, or a situation of attachment of the objects, Software, and/or software underlying (the) MSP service(s) involved in the execution of the Agreement or the termination of relevant business operations by the relevant party.
- 1.1.6. *General section*: the present general section of the General Terms and Conditions.
- 1.1.7. *General Terms and Conditions*: these general terms and conditions of delivery of Oxyma including the applicable addenda between parties.
- 1.1.8. *Group*: the group of entities of which the user of these General Terms and Conditions is a member, pursuant to article 2:24b of the Dutch Civil Code.
- 1.1.9. *Hosting*: Service consisting of making Software, data (e.g. images), API's and/or Websites accessible to the Client from another location, through the internet, by Implementing these on a centrally located physical or virtual server, not including MSP services.
- 1.1.10. *MSP service*: (Managed Service Providing) Service that provides the Client or third parties on behalf of the Client with specific functionality from another location, through the internet.
- 1.1.11. *Oxyma*: name for the other party of the Client, namely Oxyma Group B.V. or an operating company that is part of the group such as Oxyma B.V., InBetween Marketing Services B.V. aFrogleap B.V., Sabaki Groep B.V. (trading under the trade name "Oogst Online"), Your Social B.V. or another company, subsidiary or sister company of the Group, that uses these General Terms and Conditions.
- 1.1.12. *Service*: activities to be performed by Oxyma for Client in the context of this Agreement



- 1.1.13. *Software*: the computer software to be supplied to the Client for the Services of Oxyma or to be made accessible by means of Hosting
- 1.1.14. *Third party supplier*: a supplier with whom Client enters into or has entered into an agreement related to establishing Services and/or Software
- 1.1.15. *Training*: form of knowledge transfer to be organized by Oxyma aimed at using items, Software, Websites and/or (MSP-)Service to be provided or supplied by Oxyma.
- 1.1.16. *Website*: a location and/or functionalities on the internet, whether protected or otherwise, accessible via a URL, belonging to Client, which is not offered by Oxyma as an MSP service.
- 1.1.17. *Work days*: calendar days save weekends and Dutch public holidays, on the understanding that every year the 5th of May counts as a work day.
- 1.1.18. *Working hours*: the hours between 9 AM and 5 PM on Work days, or - in case of interim services, eight consecutive hours between 8 AM and 6 PM.

ARTICLE 1.2. OFFER, AGREEMENT AND APPLICABILITY OF THE GENERAL TERMS AND CONDITIONS

- 1.2.1. The General Terms and Conditions apply to all of Oxyma's offers ("offertes"), as well as to all Agreements and any ensuing Agreements between Oxyma and Client. Applicability of the Client's general (purchase) terms and conditions or any other general or special conditions of Client are explicitly excluded.
- 1.2.2. All by Oxyma issued offers are without any obligation, unless the offer states otherwise. In case the offer state a term, the term only regards the validity of the offer and does not affect the nature of the offer of being an offer without any obligation.
- 1.2.3. An Agreement between Oxyma and Client will be concluded by the full acceptance of Oxyma's offer by Client. Acceptance will be effected by the Client's signing of the order confirmation.
- 1.2.4. A deviating order confirmation of an offer constitutes an invitation to Oxyma to submit a new offer. Such a new offer may be accepted by Client in the same manner as set out in article 1.2.3.
- 1.2.5. An Agreement may also be concluded if both parties sign a document drawn up by Oxyma which specifies which items, Software and/or Services will be purchased by Client and at what prices and rates, as well as any other details.

ARTICLE 1.3. COOPERATION

- 1.3.1. Oxyma will provide Client with items of property and/or Software and/or perform Services for Client as agreed. Client undertakes towards Oxyma to accept the deliveries and/or the Services to be performed in accordance with these General Terms and Conditions and the Agreement, to render the anticipated support, as well as to pay the fees due.
- 1.3.2. Client is to provide Oxyma in a timely fashion and free of charge with all information and data required for the execution of the Agreement, including but not limited to technical data, applications, files, documentation, test data, work descriptions and/or other relevant information. Client is responsible for and accepts the risk of possible problems arising from mistakes, inaccuracies, incompleteness and inconsistencies of all such data, materials and information provided by Client.
- 1.3.3. If and insofar as Oxyma is provided with works by Client as part of activities to be performed, Client guarantees in respect thereto that Client owns the intellectual property right, at any rate that such a license to the works has been obtained that Oxyma is permitted under the Agreement to carry out actions in respect of these items. Client shall indemnify Oxyma



- against all possible claims of third parties relating to infringements against intellectual property rights as referred to above.
- 1.3.4. Oxyma will comply with Client's procedures, regulations and working methods, provided that Oxyma has been notified beforehand in writing of such in a timely fashion and that these procedures, regulations and working methods are not unreasonable and do not hinder Oxyma in the delivery of item of property, Software and/or the rendering of Services.
- 1.3.5. Parties acknowledge that proper communication is an essential condition for proper cooperation. Both Client and Oxyma will appoint contact persons and alternative contact persons that are authorised to represent the respective party regarding the execution of the Agreement(s). The names of the contact persons as well as the extent of their authority will be set out in the Agreement. The contact persons will at least ensure the mutual communication and the supervision of the progress of the execution of the Agreement.
- 1.3.6. Oxyma and Client will both do their utmost to have the Agreement executed by or under the responsibility and supervision of one designated contact person.
- 1.3.7. Client will ensure suitable personnel of sufficient quality to be involved in the execution of the Agreement. If Oxyma finds that the Client's personnel lack sufficient quality, it will report this to Client. Client is obliged to raise the level of knowledge of this personnel to an adequate level as soon as possible. The execution of the relevant Agreement may be suspended by Oxyma in this connection without Oxyma being obliged to any compensation towards Client.
- 1.3.8. If one party finds that the other party does not commit itself sufficiently, such party will inform the other party about this in writing.
- 1.3.9. If Client fails to meet its obligations in any way whatsoever, Oxyma shall have the right to suspend the fulfilment of its obligations without being obliged to compensate Client for damages. Oxyma is entitled to charge Client for any additional costs incurred in this connection.
- 1.3.10. If so established in the Agreement parties will meet at regular intervals to consider the progress of the execution of the Agreement.

ARTICLE 1.4. PRICES AND HOURLY RATES

- 1.4.1. The prices and hourly rates in respect of items of property and/or Services referred to in an offer apply for the duration of validity of the relevant offer.
- 1.4.2. If an Agreement is drawn up for the execution of Services, it will explicitly include the agreed prices and hourly rates. Such prices are only indications. Invoicing will always be effected on the basis of actual costs, unless explicitly agreed otherwise.
- 1.4.3. All prices and rates are given in Euros, excluding turnover tax and excluding other charges imposed by the government.
- 1.4.4. Travel expenses as well as any accommodation expenses will be charged separately.
- 1.4.5. Cost for royalties, licenses and/or (user)fees regarding images, fonts and such, will be separately invoiced. In that case the terms of the Third party supplier of those materials apply. It is the responsibility of client to (periodically) check whether those terms are still met. Client indemnifies Oxyma for claims of Client or the Third party supplier of the aforementioned materials, regarding not complying with the terms connected with the use of the material.
- 1.4.6. A surplus charge applies to the execution of Services or other activities outside of Work hours as laid down in the Agreement and/or offer.
- 1.4.7. Oxyma is entitled to raise the agreed prices and rates annually by a percentage that is at least equal to the most recently published price index "Cao-lonen, contractuele loonkosten en



arbeidsduur (2010 = 100)” as published by Statistics Netherlands (CBS) at the time at which Oxyma determines the price increase. Prices and rates will be changed only as of January 1st and Client will be informed of such in writing by Oxyma one (1) month before the effective date at the latest. For the parts of the agreed upon service for which Oxyma acquires those parts from other suppliers, and resells it to Client, Oxyma has the right to charge Client with the increase of the prices and rates of those suppliers.

ARTICLE 1.5. INVOICING AND PAYMENT

- 1.5.1. Oxyma will indicate on the invoices the date of invoice, the specification, the amount due in euros, the VAT based on the applicable percentage and the account number into which the payment is to be made.
- 1.5.2. Services will in principle be invoiced in arrear except for Services arising from agreements with a transaction value exceeding € 100,000 (one hundred thousand euros), in which case a share of maximum 50 % (fifty percent) may be invoiced beforehand at Oxyma's discretion.
- 1.5.3. Execution of additional Services not foreseen or agreed upon in the original order shall constitute extra work and shall be delivered or carried out following Oxyma's reporting to Client in accordance with Oxyma's applicable rates at that time. Client accepts that delivery or execution of extra work may affect delivery periods, completion time and/or costs.
- 1.5.4. All invoices are to be paid by Client without any form of setoff within fourteen (14) days from date of invoice. If payment is not made within the payment term Client shall, without the necessity of notice of default, owe Oxyma the then applicable statutory trade interest (“wettelijke handelsrente”) plus two percent (2%) of the invoice amount. If, even after notice of default, in which there was a reasonable term of payment, Client continues to default in payment of the amount due, Oxyma may, in addition to the statutory trade interest (“wettelijke handelsrente”) due, claim compensation of the extrajudicial costs, the amount of which is set as at least fifteen percent (15%) of the total principal sum due with a minimum of € 500.00 (five hundred euros).
- 1.5.5. Any complaints pursuant to allegedly incorrect invoices or alleged defects in the execution of Services must be received by Oxyma in writing within five (5) days from date of invoice or execution, failing which the right to complain concerning the relevant invoice will lapse.
- 1.5.6. Oxyma is at all times entitled to request Client to provide sufficient security for meeting its payment obligations and to suspend the execution or further execution of the Agreement until the requested security has been provided.

ARTICLE 1.6. GUARANTEE

- 1.6.1. Oxyma will provide no guarantees other than those given in these General Terms and Conditions.
- 1.6.2. Oxyma guarantees in respect of Services and Training that:
 - a. Oxyma is qualified to carry these out;
 - b. these will be carried out in a workmanlike fashion;
 - c. the results thereof meet the agreed qualifications;
 - d. Oxyma's employees who have the appropriate qualifications will remain available to carry out the agreed Services for the duration of the current Agreement.
- 1.6.3. Client will strictly observe any preconditions included in an SLA at all times upon pain of forfeiting any claim on fulfilment by Oxyma of any obligation of Oxyma included in such an SLA.



- 1.6.4. Oxyma does not guarantee that an App will always be granted to the Appstore of the respective manufactures of mobile devices and/or vendors of operating systems.
- 1.6.5. After acceptance as mentioned in Article 2.18, or in case no acceptance is agreed upon, after Delivery Ready for operation, Oxyma warrants for a period of twelve (12) months, to support what was delivered, encompassing at least the guarantee that in case Client asks for a change in what was delivered, the request will be answered by an offer. However, Oxyma cannot guarantee that in case what was delivered is an App, the changed App will be accepted for the Appstore, in some cases the App needs to be changed beyond the request of the Client, to let the App meet the by the Appstores issued current quality policies

ARTICLE 1.7. CONFIDENTIALITY AND SECURITY

- 1.7.1. Information is confidential if this has been deemed as such by the one party or if the other party otherwise knows or should understand that such information is confidential.
- 1.7.2. Parties will use confidential information obtained from or made available by the other party only in accordance with the provisions in the Agreement, and will not provide third parties with such information either directly or indirectly or give permission thereto without the other party's prior written consent. Parties will furthermore take all necessary precautions to protect such information against unauthorized use and disclosure.
- 1.7.3. The provisions in this article shall not apply if a party is required to disclose confidential information under a decision of the court or by government order.
- 1.7.4. Client is obliged to take measures to prevent unauthorized persons from having access to or from being able to access the Services and data. Oxyma shall not be held liable for damage sustained by Client due to making unauthorized or unlawful use of the Software and/or Service(s) by third parties.
- 1.7.5. Oxyma guarantees that it will secure its systems adequately, in conformance with the state of the art ("stand der techniek").
- 1.7.6. Parties will make every reasonable effort to adequately secure the data or information provided to them by the other party. Parties undertake not to use information obtained from the other party for purposes or in ways other than for the purpose and/or way in which the information was provided or has become known to the other party in the execution of the Agreement.

ARTICLE 1.8. DURATION, SUSPENSION AND TERMINATION

- 1.8.1. An Agreement will be entered into for the duration as stated therein.
- 1.8.2. If no specific duration was agreed to in an Agreement, a duration of an indefinite period of time is agreed to, unless the nature of the Agreement dictates otherwise. In the latter case the Agreement itself will stipulate the end of the duration.
- 1.8.3. If an Agreement was concluded for an indefinite period of time, Client and Oxyma will be entitled to terminate such by registered letter to the other party and subject to three (3) months' notice. Notice of termination cannot be given before a period of at least one (1) year that the Agreement has been in effect.
- 1.8.4. If an Agreement regarding services with a continuous character was concluded for a period of one (1) year or longer, such Agreement may be terminated by registered letter to the other party and subject to three (3) months' notice. If notice of termination is not given, the Agreement will, after the lapse of the (initial) duration, be renewed on each occasion by



- operation of law for a period of one (1) year under the same terms and conditions, yet subject to the provisions set forth in 1.4.7.
- 1.8.5. Notice of termination can be given only before the end of a calendar month.
- 1.8.6. Apart from that which is set forth elsewhere in these General Terms and Conditions or in the relevant Agreement, each of the parties is entitled, without the necessity of any demand or notice of default, to dissolve the Agreement in whole or in part out of court by registered letter with immediate effect:
- a. If the other party fails to fulfil its obligation and persists therein even after having been given notice of default, whereby a reasonable term has been set to fulfil its obligations, unless a strict deadline is exceeded as a result of which the other party is in default by operation of law and the one party can dissolve the Agreement immediately in accordance with this provision after commencement of the failure;
 - b. If one of the Parties is in a situation of Discontinuity.
- 1.8.7. If at the time of dissolution of an Agreement parties have already carried out and received services in execution thereof, such services and the relating obligations to pay shall not be the subject of undoing.
- 1.8.8. If Client fails to fulfil or is late in fulfilling any obligation arising from an Agreement, or if valid ground exists to fear that Client will not be capable of fulfilling any obligation arising from the Agreement, Oxyma will be entitled to suspend the execution of the Agreement, such without Oxyma being obliged to any compensation. Suspension will be effected only after Oxyma has informed Client thereof in writing and Client has been granted a reasonable term to fulfil its obligations after all.
- 1.8.9. Within fifteen (15) days after termination of an Agreement parties shall return all confidential information in their possession, irrespective of the form, to the rightful owner.
- 1.8.10. Obligations which, according to their nature, are meant to continue even after termination of the order, will remain in full force. The termination of the order shall not explicitly release parties from the provisions in respect of: confidentiality, ban on takeover of personnel, intellectual property, applicable law and competent court

ARTICLE 1.9. LIABILITY

- 1.9.1. The liability of a party on account of attributable failure to fulfil an Agreement will arise in all cases only if the one party gives the negligent party proper notice of default forthwith in writing, whereby a reasonable term to reverse the failure is set, and the negligent party continues to fail attributable to fulfil its obligations even after such term. This also applies in case of laps of delivery terms, regardless whether the terms were binding (“fataal”). The notice of default is to contain a full and as detailed as possible description of the failure(s), so that the negligent party is in a position to respond adequately.
- 1.9.2. Oxyma's total liability due to an attributable failure to fulfil an Agreement, including breaching guarantees and other failures, such as tort, is limited to compensation of direct financial loss to a maximum of the amount of payments (excluding VAT) reduced with the amounts Oxyma paid to third party vendors involved in the execution of the Agreement, received from Client in respect of such Agreement in connection with the execution of Services by Oxyma. The total liability of Oxyma is never higher than the amount of € 1,000,000 (one million Euros). If the Agreement is mainly a continuing performance contract with a term of one (1) year or longer, liability shall be limited to compensation of direct financial loss to the maximum amount received from Client in the twelve (12) months preceding the harmful event in consideration of the execution of such continuing



performance contract in respect of the relevant Service performed by Oxyma (excluding VAT), reduced with the amounts Oxyma paid to third party vendors involved in the execution of the relevant Service in the aforementioned twelve (12) months. The total liability of Oxyma is never higher than the amount of € 1,000,000 (one million Euros).

In case Client entered into separate Agreements with members of the Group, the total aggregated liability – in case there are multiple claims for damages against members of the Group- is limited to an amount of € 1,000,000 (one million Euros) per calendar year.

- 1.9.3. Direct financial loss as referred to in Article 1.9.2 shall only be taken to mean:
- a. Reasonable costs which Client would incur to have Oxyma's performance meet the Agreement; such alternative loss shall not be compensated, however, if the relevant Agreement is or has been dissolved by or on the demand of Client;
 - b. Reasonable costs which Client has incurred for keeping its old system or systems and related facilities longer operational out of necessity as Oxyma did not deliver on a final delivery date that was binding for Oxyma, less any savings that are the result of the delayed delivery;
 - c. Reasonable costs incurred to determine the cause and extent of the damage, insofar as the determination relates to direct loss within the meaning of this article;
 - d. Reasonable costs incurred to prevent or limit damage, insofar as Client demonstrates that such costs have resulted in limitation of direct loss within the meaning of this article;
 - e. Only in the case of MSP service, also the reasonable costs incurred to recover data files.
- 1.9.4. Liability on the part of Oxyma in respect of all forms of damage other than those set out in Article 1.9.3 is excluded, explicitly including consequential damage, loss of profit, loss of savings, diminished goodwill, corruption or loss of data files and damage relating to the calling in by Client of Third Party Suppliers or suppliers designated for Oxyma.
- 1.9.5. The limitation of liability pursuant to Article 1.9.2 shall lapse:
- a. in case of willful intent or conscious recklessness on the part of the party causing the damage;
 - b. in the case of claims of third parties for compensation as a result of death or injury.
- 1.9.6. A condition for the right to compensation is that the party sustaining the damage report each occasion to the party causing the damage in writing as soon as possible after its occurrence.
- 1.9.7. Any claim to compensation against Oxyma shall expire after the lapse of three (3) months following its occurrence, or so much sooner the by virtue of law.

ARTICLE 1.10. FORCE MAJEURE

- 1.10.1. None of the parties is obliged to fulfil any obligation if it is hindered as a result of force majeure. Parties can rely on force majeure towards each other only if the party relying on force majeure informs the other party thereof in writing as soon as possible, and submits the necessary proof.
- 1.10.2. In any event force majeure includes the improper failure by Oxyma of its obligations as a result of (prolonged) illness of its personnel, strikes, calamities such as fire, traffic jams, weather conditions, late delivery or unsuitability of materials or software the use of which has been prescribed to Oxyma by Client and failures of Third Party Suppliers or suppliers, whether attributable or not, to fulfil obligations towards Oxyma. In addition to the examples set out in this paragraph parties may include other conditions of force majeure in an Agreement and/or SLA.
- 1.10.3. If a condition of force majeure has lasted for more than sixty (60) days, parties shall have the right to dissolve the Agreement with immediate effect out of court by means of registered



letter, without parties being obliged to any compensation. That which had already been performed under the Agreement shall then be settled pro rata.

ARTICLE 1.11. TRANSFER AND SUBCONTRACTING

- 1.11.1. Client is not entitled to transfer rights and obligations to a third party without prior written consent from Oxyma. This consent will not be withheld on unreasonable grounds, but Oxyma may attach conditions to the consent.
- 1.11.2. In the execution of the order, Oxyma is entitled to make use of third parties, irrespective of whether that is on the basis of subcontracting or of hiring of personnel. This shall not affect Oxyma's responsibility and liability in respect of the fulfilment of its obligations under the Agreement(s), as well as its obligations arising from tax legislation and social security legislation.
- 1.11.3. In the relationship with Third party Suppliers Oxyma acts in its capacity as coordinator, which implies that Client can contact Oxyma for questions and information concerning the Software or Services and Oxyma will then contact the relevant Third Party Supplier. Oxyma is not responsible for the execution and fulfilment of obligations of Third Party Suppliers under their agreement(s) with Client.

ARTICLE 1.12. APPLICABLE LAW AND DISPUTES

- 1.12.1. Dutch law shall apply to all offers, Agreements and Agreements arising from Agreements.
- 1.12.2. In the event of a dispute either party will inform the other party in writing that there is a dispute, as well as submit a summary statement of the subject of the dispute in the opinion of such party.
- 1.12.3. In the event of disputes which might arise in connection with or as a result of the Agreement and relate to the supply of Apps, Software, Implementation thereof, maintenance of Software, maintenance of Websites, maintenance of Apps, Support for Software, Websites and/or Apps, Hosting and/or MSP service(s), will be submitted to arbitration at the Stichting Geschillenoplossing Organisatie en Automatisering (SGOA) [Foundation for the Resolution of Automation Disputes] in Haarlem, which body is competent to take cognisance of the dispute on the basis of its articles of association and regulations.
- 1.12.4. The provisions in Article 1.12.3 shall not affect the right of parties in urgent cases to turn to the Preliminary Relief Judge of the competent District Court to give a decision in interlocutory proceedings, or to turn to the competent District Court to attach property before judgment.
- 1.12.5. Disputes other than those referred to in Article 1.12.3 which might arise in connection with or as a result of the Agreement will be submitted to the competent court in the district where the entity which used these General Terms and Conditions has its registered office, including the Preliminary Relief Judge of this District Court, giving judgment in interim injunction proceedings.
- 1.12.6. The provisions in Articles 1.12.3 and 1.12.5 will not affect the obligation of both parties to make every effort to solve disputes relating to the Agreement as much as possible by mutual agreement.

ARTICLE 1.13. MISCELLANEOUS

- 1.13.1. Changes in or adjustments to the Agreement shall be valid only insofar as agreed on in writing.
- 1.13.2. For the duration of an Agreement, as well as within one year after termination thereof, Client and its affiliated companies will refrain from making offers to and/or employing and/or



entering into a cooperation of any nature whatsoever with an employee or employees of Oxyma, such under pain of an immediately payable penalty of twelve (12) times the highest gross monthly salary paid by Oxyma to the relevant employee(s), which is set at least at € 70,000 or, in the event that the relevant employee is not an employee of Oxyma's, the total of the fees paid or due over the last months in which this employee or these employee(s) has/have carried out activities for Oxyma. The penalty will be increased by € 7,000 for each day that the violation continues. This penalty shall not affect Oxyma's right to claim compensation for damage sustained and yet to be sustained. Subheadings and other indications of articles only serve to increase the readability of these General Terms and Conditions and do not as such limit the scope of the articles.

- 1.13.3. Notifications which parties give to each other in writing under these General Terms and Conditions or an Agreement may also, unless the relevant provision explicitly requires written notifications, be given digitally, i.e. by fax or by e-mail, on the understanding that the party that chooses to use an electronic medium bears the risk of proof if a notification did not arrive or did not duly arrive according to the other party.
- 1.13.4. A party's failure to demand fulfilment of any provision within a term set out in the Agreement or these General Terms and Conditions shall not affect the right to demand fulfilment, unless the relevant party has explicitly agreed to the non-fulfilment in writing and insofar as no more than twelve (12) months have lapsed after the expiry of this term.
- 1.13.5. In the event of any contradiction whatsoever between the provisions in the Agreement and the provisions in these General Terms and Conditions the provisions in the Agreement shall prevail.
- 1.13.6. The Agreement shall prevail at all times over any Appendix thereto. Prevalence of Appendices to an Agreement may be laid down in the Agreement itself; if there is no such prevalence provision, the Appendix with the lowest number shall prevail, i.e. Appendix 1 shall prevail over Appendix 2, Appendix 2 shall prevail over Appendix 3, etc.
- 1.13.7. If one of the provisions of these General Terms and Conditions is null or nullified, the remaining provisions of these General Terms and Conditions shall remain unimpaired and parties shall enter into consultation to agree on an alternative provision, whereby the purport of the first-mentioned provisions of these General Terms and Conditions shall be retained in its entirety as much as possible.
- 1.13.8. In cases not provided for by these General Terms and Conditions nor by the Agreement, parties shall enter into consultation for this purpose as soon as possible.



SECTION 2. ADDENDUM: DELIVERY OF SERVICES AND GOODS

These General Terms and Conditions consist of a General section and one or more addenda such as the present one. The present addendum is integrally and inextricably related to the General section of the General Terms and Conditions as if the provisions of this addendum were included in the General section of the General Terms and Conditions. In the case of a contradiction between a provision in the General section and a provision in an addendum, the provision from the addendum shall apply. In the case of a contradiction between addenda themselves, the provision of the addendum that is mostly related to the nature of the products to which the Agreement relates shall apply, such at the discretion of Oxyma.

ARTICLE 2.1. DEFINITIONS

As a supplement to SECTION 1 (General section) the following definitions, when used in the General Terms and Conditions and/or in the Agreement, in the singular or in the plural, and starting with a capital letter, shall have the meaning as defined in this article. Additional and/or deviating definitions may be included in the Agreement and/or SLA which will then apply to such relevant Agreement and/or SLA.

- 2.1.1. *Acceptance Test*: a test that enables Client to determine whether the Services meet the agreed Functional specifications.
- 2.1.2. *Availability*: the percentage of time during Working hours in which Client can make use of a Service.
- 2.1.3. *Content Creation*: a Service consisting completely or partially of developing photo's, illustrations, video's, copy, with the purpose to share those in the context of Community Management on social media and/or online platforms.
- 2.1.4. *Community Management*: a Service consisting completely or partially of, whether together or not with Client, rendering activities for a brand or company of Client, with the purpose of presenting the brand or company on several social networks and/or online platforms.
- 2.1.5. *Data enhancement*: Service consisting of verifying and improving data files on the basis of agreed rules.
- 2.1.6. *Defect*: an imperfection in the goods, Software, Website, Hosting or MSP service as a result of which this does not meet the agreed Functional specifications, or which occurs during the use thereof.
- 2.1.7. *Delivery Ready for operation*: completion of the full Implementation,
- 2.1.8. *Delivery*: the actual provision of goods and/or Software and/or Services via a medium, including the internet and/or a WAN-connection.
- 2.1.9. *Functional specifications*: the written specifications included in a document which describes the functions and details that are to have been included in the Software and/or which the Software and/or corresponding Services are to meet.
- 2.1.10. *Implementation*: Service consisting of implementing, rendering operational, structuring, adjusting, parametrising and preparing the Software and/or Websites to be put into operation and familiarizing the user with the functionality - which is not a Training
- 2.1.11. *Product Owner*: role within SCRUM, is responsible to Client for decisions regarding functionality.
- 2.1.12. *Requirements*: a set of requirements issued by Client to Oxyma in advance, at conclusion of the Agreement, the agreed upon work has to meet the requirements.



- 2.1.13. *Scope*: a set of User Stories describing the agreed upon work the moment the Agreement was concluded., parties can continuously change the scope during the project in accordance with article 2.6.3 of these General Terms and Conditions.
- 2.1.14. *Sprint*: a collection of User Stories which are fulfilled by Oxyma within a certain time frame, every sprint results in a product ready for operation.
- 2.1.15. *Samples*: copies or examples of (a part of the) items to be developed by Oxyma, including, but not limited to proofs and/or types, test files and/or prototypes of websites and/or CD-ROM that enable Client to check if that which has been or is going to be manufactured by Oxyma or by a third party called in by Oxyma meets the agreements made by parties in respect thereto.
- 2.1.16. *SLA (Service Level Agreement)*: document in which arrangements can be made between parties on the contents and quality of the service(s) to be provided, also including the arrangements on how such a service is to be managed. An SLA will function as an Appendix to an Agreement.
- 2.1.17. *SCRUM*: an iterative, incremental and *agile* development method.
- 2.1.18. *Search Engine Marketing*: A Service consisting completely or partially of SEO (search engine optimisation), SEA (search engine advertising) SA (social advertising) and/or link building.
- 2.1.19. *User Story*: one or more Requirements of Client converted into a (functional) description, in accordance with SCRUM methodology.

ARTICLE 2.2. CAMPAIGN SUPPORT AND MANAGEMENT

- 2.2.1. If and insofar as agreed Oxyma will assist Client in the execution of its marketing campaigns and will conduct the management of such campaign on the basis of the specification included in the relevant SLA.
- 2.2.2. The intensity of the campaign support and management depends upon the service package selected by Client. Upgrades in the service package, e.g. from silver to gold, are possible at all times and that as of a date to be determined by mutual agreement between parties, from which Client will be charged the rate pertaining to the comprehensive services. Downgrades, e.g. from gold to silver are - unless explicitly agreed otherwise in writing - subject to an application term of at least six months, after which as of the date to be determined by mutual agreement between parties the Client will be charged the rate for the less comprehensive services. Applications for upgrades and downgrades are to be communicated in writing or digitally to Oxyma in accordance with the provisions in article 1.13.3.
- 2.2.3. Management by Oxyma shall never imply responsibility on the part of Oxyma for activities to be carried out in the marketing campaign by suppliers other than Oxyma. In the event that Oxyma has indicated an expected completion time for a marketing campaign - whereby such completion time should be construed as a term, Oxyma shall not be liable for any damage as a result of delay in the execution of the campaign that results directly or indirectly from acts or omissions on the part of Client or a supplier of Client.

ARTICLE 2.3. TRAINING

- 2.3.1. If and insofar as there is an agreement about the provision of a Training, the Training to be provided will be specified in the Agreement, as well as the location of the Training , at what rate and if necessary according to which implementation schedule.
- 2.3.2. Oxyma guarantees that the instructors have sufficient knowledge of the subject and sufficient didactic skills for proper implementation of the Training course.



- 2.3.3. Oxyma will provide each participant with adequate course material for personal use. The copyright on the course material will not pass to Client. Oxyma will grant a revocable, non-exclusive and non-transferable licence to Client for personal use of the course material.
- 2.3.4. Client has the right to cancel a Training before its start without being obliged for any related costs. However, if Client cancels the Course within two (2) weeks before the start of the Training, Client shall fully owe the costs charged or to be charged to the Client for the relevant Course.
- 2.3.5. No reimbursements will be involved if Oxyma cancels the Course up to two (2) weeks before the start at the latest. Any amounts already paid by Client will be refunded forthwith.

ARTICLE 2.4. DEVELOPMENT WEBSITES, SOFTWARE, API'S AND APPS

- 2.4.1. In case a Website, Software, API or App is developed with the use of open source software and/or frameworks, the relevant open source license(s) do apply for Client. In case the open source license conflicts with what is stated in the General Terms and Conditions or Agreement regarding intellectual property, the open source license prevails. In the Agreement is stated which open source software will be used. Oxyma is never responsible for patching, upgrading and/or updating the open source software and/or frameworks, in case Client did not enter into a maintenance agreement and/or SLA with Oxyma, which agreement and/or SLA explicitly covers patches, upgrades and/or updates. Oxyma is, except for willful intent or conscious recklessness of the top level management of Oxyma, not liable for claims of third parties regarding infringement of intellectual property rights regarding the open source software and/or frameworks Oxyma used. Therefore, taking the nature of open source into consideration, Oxyma cannot guarantee that the used open source software and/or frameworks do not infringe intellectual property rights of third parties.
- 2.4.2. Oxyma cannot guarantee that a Website or App will work as intended in every browser or on every device. In case of a Website, the Agreement states in which browsers the Website will work as intended, in case this is not stated in the Agreement, Client can assume that the Website will work as intended in the two (2) browsers which were used most in the Netherlands at the Delivery Ready for operation. In case of an App the Agreement states for which operation systems (including versions) the App will be developed. Oxyma cannot guarantee that the App will always work as intended on a non-prevailing device on which a version of an operating system installed for which the App is developed.
- 2.4.3. In case Oxyma uses API's of third parties for functionality of a Website, Software or App, the (user) terms of the API also apply for Client. In the Agreement is stated which third party API's are used. For third party API's Oxyma cannot guarantee, unless explicitly agreed upon otherwise, the availability.
- 2.4.4. In case of development of a Website, Software, Apps and API's, what is stated in Article 2.18 of this section regarding Acceptance, applies *mutatis mutandis*.
- 2.4.5. For Apps and/or API's, in case a maintenance agreement and/or SLA is not agreed upon, a standard maintenance agreement applies. This maintenance agreement enters into force after Acceptance. This standard maintenance agreement encompasses that Client has three hours per calendar month at its disposal, which hours can be used to improve the App and/or API upon request of Client, or to fix Defects outside the defects liability work period as stipulated in article 2.18.12. The amount of hours is stated in the Offer. In case more hours are used in a calendar month, than agreed upon, the surplus is charged to Client on the basis of time and material. Hours which are not used, lapse at the end of the calendar month. In



case there is no standard maintenance agreement, request are followed up at the basis of time and materials. Oxyma is not obliged to follow up those request (immediately).

ARTICLE 2.5. SUPPORT IN THE USE OF SOFTWARE, WEBSITES AND APPS

- 2.5.1. If Client concludes an Agreement pertaining to the support of Software, Websites and/or Apps, it will be entitled to support as referred to in this article. The Agreement will specify what rights Client has to which components, under which conditions and at what prices and rates.
- 2.5.2. Support may include the following:
- a. the provision of telephone or e-mail assistance or information concerning the use of, or with regard to technical problems with the Software, Websites and/or Apps;
 - b. the analysis, verification and if possible repair of a Defect via the telephone and/or internet following notification by Client.
- 2.5.3. If possible, after notification of a Defect to the help desk, Oxyma will carry out distance activities. If Software and/or Website(s) are used by Client on site, Client will ensure an adequate connection to Oxyma so that Oxyma can carry out its activities. By signing the Agreement to that effect Client grants Oxyma permission to execute support via connection(s). Oxyma is to comply with regulations to be prescribed by Client in respect of the nature and the use of the connection.
- 2.5.4. If a decision is made after mutual consultation for Oxyma to carry out on-site support for Client. Execution of on-site activities for Client will be effected on the basis of actual costs at the then applicable rates.
- 2.5.5. If and to what extent the activities are to be carried out outside of Working hours will be determined in mutual consultation. Article 1.4.6 will apply mutatis mutandis.
- 2.5.6. Applications for support can be submitted during Working hours by Client's employees who were trained for that purpose and/or designated in the Agreement. The report will be filed in accordance with the applicable procedure, as laid down in the Agreement. Client acts as first-line support, and Oxyma as second-line support, in case of an App. Therefore, Client will never let an end user invoke the agreed upon support, unless parties explicitly agreed upon otherwise, or unless Oxyma in the course of tracking down technical problems or Defects, in a specific case, grants its permission.
- 2.5.7. If a request for support constitutes the report of a Defect, this report will be dealt with by Oxyma only if the Defect is demonstrable and reproducible.
- 2.5.8. Parties can conclude an additional Service Level Agreement (SLA) for support and designate personnel in such an SLA that are authorized to change the contents of the SLA. By definition, an SLA contains an operationalization of the performances to be provided. Provisions pertaining to liabilities, indemnities, guarantee periods, intellectual property rights and the like are out of order in an SLA and therefore null and void.
- 2.5.9. If there is no SLA, Oxyma will make every effort to provide a temporary solution to the problem, including programme bypasses or problem-avoiding restrictions, if a first diagnosis shows that a Defect cannot be solved within one (1) Working day (Priority 1), two (2) Working days (Priority 2) or eight (8) Working days (Priority 3).
- 2.5.10. Oxyma will forward a report of a Defect to the Third party Supplier if the Defect can be attributed to Software that was not licensed by Oxyma itself. The provisions in this article do not apply to Software as referred to above with regard to support.



- 2.5.11. Defects in the Software and/or Website(s) that were caused by:
- a. improper use by Client or users of Client;
 - b. gross negligence by Client or users of Client;
 - c. use not in accordance with the intended purpose;
 - d. causes in systems and/or software, website(s) not supplied and maintained by Oxyma;
 - e. working with durable and non-durable items of property which do not meet the specifications approved in advance by Oxyma;
 - f. changes made to or repairs carried out on the Software and/or Websites by Client or third parties without Oxyma's prior permission,
- are not covered by Oxyma's maintenance obligation or support obligation. Said Defects will, if carried out by Oxyma, be repaired on the basis of Oxyma's then applicable rates.
- 2.5.12. Recovery of corrupted or lost data is not covered by either Oxyma's maintenance or support obligation.
- 2.5.13. During a sufficient number of consecutive hours Client will provide Oxyma free of charge the Software, Websites and/or data files that are required for maintenance and support.
- 2.5.14. Client will take appropriate measures to prevent damage to Software, Websites and/or data files that may arise as a result of activities to be performed by Oxyma, e.g. by making regular back-ups, unless this latter obligation rests with Oxyma pursuant to an Agreement.
- 2.5.15. At least one (1) expert and employee of Client are to be present during the on-site activities.
- 2.5.16. Client will ensure that the level of knowledge of its users and managers is and remains at an adequate level. If Oxyma believes that this level of knowledge is inadequate, Client will be obliged to have users and/or managers follow certain Training at the prices and conditions valid at that time. Client's failure to fulfil such obligation may be a reason for Oxyma to suspend the Services or - provided that such would be reasonable - to dissolve the Agreement.

ARTICLE 2.6. SCRUM

- 2.6.1. The following paragraphs of this article do apply in case explicitly agreed upon that what is agreed upon should be developed on the basis of SCRUM.
- 2.6.2. After every Sprint Client approves the work in accordance with the principles of SCRUM. After this approval that specific Sprint is deemed to be accepted as stipulated in Article 2.18.
- 2.6.3. By using the SCRUM development method, parties acknowledge that changes during the development of software are common. Client is therefore entitled during the project to request Scope changes. Client acknowledges that changes can affect any estimated delivery terms.
- 2.6.4. The way of working is that after a request as set out in previous paragraph, Oxyma issues an estimation after receipt of the request. After that, Client can choose at its option to swap the change for unrealized User Stories or Requirements which have a similar extent, or to add the change to the Scope, without swapping, in which case Client accepts the additional costs.
- 2.6.5. Client makes sure there is a Product Owner, this Product Owner should have adequate knowledge regarding, and experience with, SCRUM. Oxyma assumes that the Product Owner can bind Client. In case Client does not make a Product Owner available, Oxyma is willing to put a Product Owner at the disposal of Client, in which case the Product Owner will be charged to Client on the basis of time and material.
- 2.6.6. A SCRUM project is rendered on the basis of time and materials. In case a proposal or project letter defines a number of Sprints, this amount is a mere indication.



ARTICLE 2.7. CONSULTANCY

- 2.7.1. Pursuant to an Agreement, Oxyma may carry out consultancy activities for Client.
- 2.7.2. Execution of the activities referred to in article 2.7.1 may, at Oxyma's discretion, be effected at its own location or at Client's location. In the latter case Client will ensure an adequate and safe workplace for the Employee in accordance with the applicable regulations and legislation in respect of health and safety.
- 2.7.3. Oxyma will decide which consultant will be deployed for the execution of the Agreement. If Client makes a request for the deployment of a certain consultant, Oxyma may meet such a request, but such at Oxyma's discretion.
- 2.7.4. During the term of the Agreement Oxyma is entitled, without being obliged to any compensation and/or contribution to costs, to replace one consultant with another.
- 2.7.5. Client has the right to ask for a consultant to be replaced if based on solid reasons. The costs for training replacement personnel shall be borne by Client, unless the request for replacement was based on the non-functioning or inadequate functioning of the consultant in question.
- 2.7.6. Consultancy will be charged per hour in arrears. Cancellation of scheduled consultancy half-days within two (2) days before the scheduled date is fully due.
- 2.7.7. Article 1.13.2 applies in full to personnel of Oxyma deployed as consultant.

ARTICLE 2.8. MSP-SERVICE

- 2.8.1. If an Agreement is made for such, Oxyma will provide Client with MSP services. In the Agreement parties will determine which functionality Oxyma will provide Client as MSP service. The level of an MSP service will be laid down in an SLA to the Agreement.
- 2.8.2. In case for an MSP service a license or a SaaS service is acquired by Oxyma, which license or SaaS service is an essential part of the MSP service, Oxyma is not obliged (including any availability, penalties, service credits, liability for damages due to an attributable shortcoming in the performance of the Agreement related to the delivery of the SaaS service and/or delivery of the functionality of the licensed software), to more than vendor is obliged to pursuant to the agreement with Oxyma. The relevant documentation (including any service level agreement) is available at the offices of Oxyma for consideration.
- 2.8.3. Oxyma guarantees that it has the right to provide the Client with the functionality of MSP service and indemnifies Client against claims of third parties in that regard.
- 2.8.4. As soon as Oxyma has completed installation of the functionality, Oxyma will inform Client thereof and report that completion has been effected, that the MSP service has commenced and that the functionality is ready for use by Client. Client may carry out an Acceptance Test in the manner provided for in Article 2.18.
- 2.8.5. Oxyma will inform Client in due time of adjustments of functionality and Oxyma will provide information concerning the consequences of the intended adjustments or changes. Parties will decide in mutual consultation whether Client will be provided with the adjusted functionality.

ARTICLE 2.9. HOSTING

- 2.9.1. Pursuant to an Agreement, Oxyma may carry out Hosting for Client. The contents of the Hosting and the rates will be set out in the relevant Agreement.
- 2.9.2. Oxyma will Host the software, Software and/or Website(s) referred to in the SLA on one of its servers or the server of a third party. In the absence of an SLA Oxyma does not guarantee that the Software and/or Website(s) will always be available for Client, but Oxyma aims at an



Availability of 99.5% per year. If non-Availability does not exceed four (4) consecutive hours, the Service will be considered full and uninterrupted.

- 2.9.3. Client guarantees that all the material, data and/or instructions made available by Client for the Hosting are correct and complete and that all data and data storage devices meet the specifications issued by Oxyma.
- 2.9.4. In principle, Oxyma ensures that the data of Client will not be stored outside a member state of the European Union. However, it may occur that the data of Client will be stored with American companies. In that case Oxyma will ensure that the storage will only take place with American companies willing to work with the EU model clauses, and/or are Privacy Shield certified.

ARTICLE 2.10. USE OF MSP-SERVICE OR HOSTING

- 2.10.1. Insofar as Client needs telecommunication facilities for the use of the Services, Client will be responsible for the timely selection and acquisition of an appropriate facility/facilities. Client will ensure that it will obtain any necessary permission(s) and it will adhere to all conditions of suppliers of telecommunication facilities related thereto and any other third parties in this connection.
- 2.10.2. Within the context of acquiring the MSP service or Hosting Client will act as a professional user and will at any rate:
- a. not make any improper, unauthorised, unlawful or objectionable use or use not in accordance with the intended purpose of Oxyma's MSP service or Hosting;
 - b. not place any data on Oxyma's servers that are in breach of the rights, including the intellectual property rights of Oxyma or third parties;
 - c. not infringe on the intellectual property rights of Oxyma or third parties;
 - d. not disseminate any viruses;
 - e. not make use of hardware other than the hardware recommended by Oxyma and otherwise follow Oxyma's instructions with reference to preconditions for the use, as included in the SLA;
 - f. not permit third parties to make use of the MSP service or Hosting without Oxyma's prior explicit written consent;
 - g. not further organise or parameterise the MSP service or Hosting, including software, Software and/or Website(s), in such a manner that the system load is substantially increased or the stability of the functionality reduced;
 - h. not cause any disruption of the functioning of Oxyma's ICT infrastructure, the infrastructure of third parties and/or links between infrastructures due to (the content or intensity of) the data traffic or due to the Client's acts and/or omissions.

ARTICLE 2.11. FEES FOR MSP SERVICE AND HOSTING

- 2.11.1. Notwithstanding the provisions in article 1.5.2, fees for maintenance and support with regard to MSP service and/or Hosting will be due by payment in advance for four (4) weeks and for the first time on the effective date set out in the Agreement. Interim maintenance and support of a functionality added to the Agreement for an MSP service and/or additional Software within the context of Hosting will be invoiced pro rata from the moment of the addition until the next date of invoice.
- 2.11.2. Provision of added functionality to an MSP service and/or additional Software within the context of Hosting and/or the execution of additional corresponding Services, that were not foreseen or agreed to at the time of the original order, will be considered extra work and will



be supplied to or executed for Client following Oxyma's notice in accordance with Oxyma's applicable rates at that time.

ARTICLE 2.12. TERMINATION OF MSP SERVICE AND HOSTING

- 2.12.1. To assure continuity of the provision of information of the Client, parties will, in the event of termination of the MSP service or Hosting, enter into consultation as soon as possible on the transfer of data, the provision of services and/or other management measures, required for an uninterrupted use by Client of its data, Software and/or MSP service.
- 2.12.2. As part of Hosting Oxyma will enable Client to effect any transfer to another party or environment. Oxyma can, however, only bring about the transfer to a party that has an infrastructure or can offer an infrastructure that is identical to Oxyma's. Oxyma shall not be liable for any damage as a result of such a transfer.
- 2.12.3. All activities performed by Oxyma under this article will be charged on the basis of actual costs at the then applicable rates.

ARTICLE 2.13. INTELLECTUAL PROPERTY RIGHTS

- 2.13.1. All rights of intellectual property, including copyrights, database rights, trademark rights and patent rights to the Software belong to Oxyma, its licensors or Third Party Suppliers. Client will acquire only those rights of use that are explicitly set out in the Agreement, or in separate licensing agreements with a Third Party Supplier.
- 2.13.2. All intellectual property rights to material works that are not Software belong to Oxyma or its licensors. Client will only acquire a right of use that is explicitly set out in the Agreement. In the absence thereof the right will only imply that actions with regard to the above-mentioned material works may only be performed by Client if and insofar as such is reasonably necessary for the agreed purpose.
- 2.13.3. Client is not entitled to remove or change notices with regard to intellectual property rights, including notices concerning the confidential nature of the works.

ARTICLE 2.14. CONTINUITY CLIENT

- 2.14.1. Upon first request of Client, Oxyma transfers the source code of Software, developed by Oxyma, to Client. Client is in that case granted a non-exclusive, non-transferrable, non-sub-licensable, license which does not entail more than what it can use and adapt the source code for its own business continuity purposes. The aforementioned license does not entail, under no circumstances, that Client can make the source code publically available and/or use it commercially. In case Client would like a third party to work with the source code, this is only allowed when the third party entered into a non-disclosure agreement regarding the source code with Client. The transfer may be subject to additional conditions.
- 2.14.2. The costs involved with the transfer are borne by Client.

ARTICLE 2.15. E-(MAIL)MARKETING, CAMPAIGN MANAGEMENT, LOYALTY PROGRAM MANAGEMENT AND DATA PROCESSING

- 2.15.1. Client guarantees the accuracy of data provided by Client under Agreements in respect of e-marketing, campaign management and/or loyalty program management and/or the Data Enhancement arising therefrom. Client indemnifies Oxyma against all claims of third parties in respect thereto, including but not limited to, claims concerning unsolicited e-mail and/or text messages and/or push notifications.



- 2.15.2. Client is aware of the fact that the quality of Oxyma's Services also depends on the quality of the data provided by Client, including the conformity with specifications agreed on in advance, and that consequently the omission or limited execution of Data Enhancement at the request of Client may have a negative influence on the quality of Oxyma's Services.
- 2.15.3. The provisions of Article 2.21 apply mutatis mutandis to the provision of Services referred to in the present article.
- 2.15.4. Client guarantees to act in accordance with the relevant legislation and/or sector guidelines at all times, including but not limited to the Dutch Code of Conduct SMS Services (“Gedragscode SMS-Dienstverlening”) and the Dutch Telecommunications Act, in particular Section 11 of this act, and indemnifies Oxyma against damage as a result of acts in breach of this legislation and these guidelines.

ARTICLE 2.16. SEARCH ENGINE MARKETING

- 2.16.1. Client acknowledges that activities regarding Search Engine Marketing, are always rendered on the basis of a best effort obligation (“inspanningsverplichting”). Since Oxyma depends for the rendering of the activities on external factors, such as continuously changing algorithms of search engines, Oxyma cannot warrant to achieve a certain result.
- 2.16.2. In deviation of what is stated in Article 1.9, Oxyma doesn't accept any liability for damages in case it becomes apparent that the methods Oxyma used in the context of Search Engine Marketing led to a detrimental result and/or a search engine penalty, except in case of willful intend or conscious recklessness of Oxyma's top level management.
- 2.16.3. In case the Service consists of search engine advertising or social advertising, Client hereby grants Oxyma the authorization to place the ads on behalf of Client. The scope of the authorization is stated in the Agreement, and covers at least the therein summed up activities. Client is responsible for the advertising budget and maintaining it.

ARTICLE 2.17. CONTENT CREATION AND COMMUNITY MANAGEMENT

- 2.17.1. Oxyma will notify Client in due time, in case images are used in the course of Content Creation, which involve rights or third parties, such as stock photo's, stock video's or stock music. Article 1.4.5 applies mutatis mutandis.
- 2.17.2. Hereby Client grants Oxyma an authorization to act on behalf of Client on social networks for which the Agreement was entered into. The authorization is revocable, not-exclusive and for the duration of the Agreement.
- 2.17.3. Hereby Client acknowledges that placing content on social media and/or online platforms is irreversible, especially when it comes to any positive or negative consequences.
- 2.17.4. Client indemnifies Oxyma for all claims of third parties regarding Community Management. In deviation of what is agreed upon in Article 1.9, Oxyma does not accept any liability for damages related to the execution of Community Management, except in case of willful misconduct or conscious recklessness of Oxyma's top level management. Therefore, Oxyma is not liable for any damage of reputation.
- 2.17.5. Client recognizes and acknowledges that social media and/or online platforms use their own terms of use when it comes to sharing content. Client hereby states that it will take notice of any terms (of use) en states to be bound to those terms (of use). In the Agreement is stated which social media and/or online platforms are used to share or place social media.



ARTICLE 2.18. ACCEPTANCE TEST

- 2.18.1. If parties agree that, after the date of Delivery Ready for operation of the Services, Client will carry out an Acceptance Test, such Acceptance Test will be effected within ten (10) Working days after the date of Delivery Ready for operation.
- 2.18.2. The Acceptance Test may relate to the Services, hereinafter referred to as the object of acceptance.
- 2.18.3. During the Acceptance Test Oxyma will assist Client at its request at the then applicable rates.
- 2.18.4. Within five (5) Working days after the Acceptance Test has taken place, Client will send Oxyma a signed and dated report of the Acceptance Test. Any Defects found will be recorded in this report and a statement will be made as to whether everything is functioning properly. A statement will also be made as to whether the Services have been accepted or not. If upon expiry of this term Oxyma has not received the results of the Acceptance Test, Oxyma will consider the Services accepted.
- 2.18.5. Minor Defects, including Defects which by their nature and/or number do not reasonably stand in the way of commercial operation, will not constitute reason for withholding acceptance, without prejudicing Oxyma's obligation to repair such Defects, as much as possible, as referred to in the next paragraph.
- 2.18.6. If and insofar as possible Oxyma will to the best of its ability repair the Defects laid down in this report within twenty (20) Working days after receipt of the report referred to in this article. If the Agreement has been concluded on the basis of a fixed price, this repair will be effected free of charge; in all other cases these activities will be charged on the basis of actual costs.
- 2.18.7. What applies in respect of Services of a Third Party Supplier is that Oxyma will immediately pass on any Defects found during the Acceptance Test to such Third Party Supplier, who will subsequently deal with such Defects on the basis of the applicable conditions. If possible Oxyma will make every effort to supply a workaround for the problem during the time that the Third Party Supplier needs to repair the Defect. Client will be charged for said workaround of the problem on the basis of actual costs.
- 2.18.8. If Client has not accepted the Services after the execution of the Acceptance Test, the Acceptance Test will be repeated in accordance with the provisions in this article, at the latest within ten (10) Working days after the Defects that were found were repaired.
- 2.18.9. If the Services are accepted by Client, the date on which the relevant report was signed by Client will apply as the date of acceptance.
- 2.18.10. If at Client's option no Acceptance Test or only a partial Acceptance Test is carried out and/or Client puts the completed operational Services in use, the date of Delivery ready for operation will apply as the date of acceptance.
- 2.18.11. Provided agreement was reached in this regard, Client will have the right to subject parts of Services already provided to a preliminary Acceptance Test in the manner as set out in this article, on the understanding that the date of Delivery ready for Operation completion is to be read as the date on which the partial completion took place. Client reserves at all times the right to carry out a full Acceptance Test after preliminary Acceptance Tests.
- 2.18.12. In case the subject of acceptance is an App or API, during a period of four (4) weeks after Acceptance, Defects in the App or API are remedied by Oxyma without additional costs. After that, Defects are remedied under a maintenance agreement and/or SLA.



ARTICLE 2.19. PROCESSING PERSONAL DATA

- 2.19.1. Prior to taking a process and/or solutions into production, which process and/or solution will involve processing of personal data, Parties enter into a data processing agreement. Oxyma will provide Client with its standard GDPR data processing agreement. In case client wishes to use its own data processing agreement, the time involved at the side of Oxyma may be billed by Oxyma on time and materials basis.
- 2.19.2. Oxyma cannot vouch for the way third parties process personal data, which third parties or their online tools are designated by Client, to be used by Oxyma. Oxyma advises Client to take notice of the privacy policies and/or terms of those third parties regarding processing personal data, especially third parties like Facebook, Twitter, LinkedIn and Google.

ARTICLE 2.20. DELIVERY OF GOODS, STORAGE OF GOODS AND RETENTION OF TITLE

- 2.20.1. If and insofar as goods pertaining to the services are delivered, such delivery will be effected under retention of title until Client has fulfilled everything to which it is obliged under the Agreement and/or other agreements with Oxyma, including interest and costs.
- 2.20.2. Delivery of the goods referred to in the previous paragraph by Oxyma in the Netherlands will be effected carriage paid. Delivery in locations other than those referred to above will be effected "ex works" in accordance with the valid Incoterms.
- 2.20.3. Acceptance of delivery by Oxyma, or by a party or parties called in by Oxyma of goods made or processed by Client and/or by a transporter called in by Client will be considered evidence that such goods were visibly in good order, unless the contrary is evidenced by the transport document or receipt.
- 2.20.4. After delivery Client is obliged to inspect whether Oxyma has properly fulfilled the Agreement and Client is furthermore obliged to notify Oxyma in writing as soon as the contrary is evidenced.
- 2.20.5. Client is required to carry out the inspection referred to in the previous paragraph of this article, the relevant notification and the return shipment of corrections with due speed, yet at the latest within three (3) days following delivery. On the expiry of the above-mentioned term the goods delivered will be deemed in order. The goods will furthermore be deemed in order if and insofar as the goods were wholly or partially put into use and/or processed by Client.
- 2.20.6. In case storing goods by Oxyma and working duties rendered on the basis of a price per item is explicitly agreed upon, than Client is obliged to acquire the stored goods against the agreed upon price per item, within a time frame of 30 (thirty) days, in case the agreed upon Service is terminated. After payment by Client, Oxyma transfers ownership of the goods to Client. This also applies in case Client wishes to change the specifications for the assembled end product, and as result unused stock remains.
- 2.20.7. Oxyma will not be charged for the storage of the goods to be delivered, unless storage was explicitly agreed. If storage does take place, such will be effected at the expense and risk of the Client, unless explicitly agreed otherwise in which case Client will take out adequate insurance for similar goods for fire, theft, etc.

ARTICLE 2.21. TIME PERIODS AND PLANNING

- 2.21.1. All time periods quoted or to be quoted by Oxyma at any time will always be an approximation and will never be fixed. Indications of time periods for delivery are based on the applicable circumstances at the time of the Agreement and timely supply of materials. If delay is caused as a result of changes in said working conditions and/or as a result of late



delivery of materials of Client and suppliers used by Oxyma, the delivery time period will be renewed insofar as necessary.

- 2.21.2. If the progress of the activities threatens to be delayed or has been delayed, Oxyma will notify Client thereof as soon as possible stating the cause of the delay and if possible state to what extent this is likely to affect the approximated delivery period.
- 2.21.3. If the delay is due to Client's acts or omissions, e.g. insufficient provision of assistance, Client shall be required to compensate the idle hours of Oxyma's employees. At the request of Client and insofar as possible Oxyma will exert itself to reverse the delay, such if possible by providing additional capacity and the deployment of additional employees. Client will compensate Oxyma for all costs involved in this.

ARTICLE 2.22. TESTS AND DEVIATIONS

- 2.22.1. Approval of Tests by Client will be considered acknowledgement of the fact that Oxyma has correctly carried out the activities that preceded the Tests. Approval will also lead to the discharge in respect of the above-mentioned activities.
- 2.22.2. Deviations between goods delivered by Oxyma and the Test/Tests shall not constitute any reason for rejection, discount and/or dissolution of the Agreement and/or compensation if such deviations are only of minor significance. Deviations of minor significance as referred to above include deviations that do not substantially affect the practical value and/or options of use of the goods delivered.
- 2.22.3. In assessing whether deviations in the overall goods delivered by Oxyma are to be deemed minor or not, Oxyma will make a representative random check of the goods, unless the nature of the goods makes a check of each separate item reasonably possible and useful, such at Oxyma's discretion.
- 2.22.4. Upward or downward variations in respect of the agreed number of goods is permitted if the deviation percentage exceeds or falls short of the number of agreed goods by a maximum of 10%. The prices due for upward or downward variations in the number of goods delivered will at all times be charged or set off against amounts already paid.
- 2.22.5. In case fixed prices per item are agreed upon, and increasing prices of the raw materials put pressure on the fixed price per item, parties enter in discussion to jointly determine whether the increasing raw material prices will be (temporarily) charged with Client in the fixed price per item, or if parties will revert to another (raw) material.



SECTION 3. ADDENDUM: INTERIM SERVICES

These General Terms and Conditions consist of a General section and one or more addenda such as the present one. The present addendum is integrally and inextricably related to the General section of the General Terms and Conditions as if the provisions in this addendum were included in the General section of the General Terms and Conditions. In the event of a contradiction between a provision in the General section and a provision in an addendum, the provision from the addendum shall apply. In the case of a contradiction between addenda themselves the provision of the addendum most closely related to the nature of the product to which the Agreement relates applies, such at the discretion of Oxyma.

ARTICLE 3.1. DEFINITIONS

In addition to Article 1.1 the definitions below, if used in the General Terms and Conditions and/or in the Agreement, in the singular or in the plural, and starting with a capital letter, shall have the meaning as defined in this article. Additional and/or deviating definitions may be included in the Agreement and/or SLA which will then apply to such relevant Agreement and/or SLA.

- 3.1.1. *Employee*: the natural person, not being personnel of Client, made available to Client by Oxyma under an Agreement to that effect with Client to carry out activities for Client.

ARTICLE 3.2. AVAILABLE PERSONNEL

- 3.2.1. If Oxyma provides Client with one or more Employees to carry out certain activities for Client during a period to be agreed upon under the management and supervision of Client, an Agreement to that effect will be concluded between parties. A specification will in any event be drawn up as to which Employee(s) will be made available during which period the activities will be carried out and at what hourly rate.
- 3.2.2. It will never be the intention of parties that an employment relationship will be established between Client and an Employee who is made available.

ARTICLE 3.3. ACTIVITIES AND CHANGES

- 3.3.1. The activities to be performed by the Employee will be specified in the Agreement.
- 3.3.2. Client will determine the activities to be carried out in consultation with Oxyma. Client is responsible for the time commitment. The activities will be carried out under the management and supervision of Client.
- 3.3.3. In addition to the activities specified in the Agreement, additional activities may be carried out for Client by the Employee.
- 3.3.4. Parties will consult, as the occasion arises, if and in what way such activities can be carried out if possible parallel to the activities referred to in article 3.3.1, or in what (other) time period. Arrangements regarding such additional activities will be laid down in writing as an addendum to the Agreement.
- 3.3.5. Client is not entitled to have the Employee carry out activities other than those laid down in the Agreement or in an addendum as referred to in the preceding paragraph, or to have activities carried out outside the Netherlands, or to hire out the Employee to a third party without having obtained Oxyma's prior written consent in respect thereto.



- 3.3.6. During the term of the Agreement parties may change the nature, contents and/or duration of the order by mutual agreement.
- 3.3.7. If and as soon as one of the Parties gains knowledge of problems in the execution of the activities, as well as of other issues that occur and are of importance to the execution of the Agreement, parties will inform each other thereof. Client will inform Oxyma among other things if:
- a. the Agreement changes in terms of nature or character;
 - b. Client wishes an Employee to carry out activities for another division of the company, insofar as this did not relate to the original Agreement;
 - c. the agreed locations for the activities are to be carried out change;
 - d. Client and an Employee differ of opinion on the way in which the activities have to be carried out.

ARTICLE 3.4. TERMINATION

- 3.4.1. In derogation of both article 1.8.3 and article 1.8.4 notice of termination can be given by either party in said cases subject to a notice period of one (1) month instead of the three (3) months set out in the above quoted articles.

ARTICLE 3.5. WORKDAYS, WORK HOURS AND LOCATION

- 3.5.1. The Employee will carry out the relevant activities during a number of days a week to be included in the Agreement. Oxyma guarantees that the Employee will be placed at the Client's complete disposal during the agreed number of days.
- 3.5.2. Parties will determine in joint consultation and in consultation with the Employee in detail the days and Working Hours to be worked.
- 3.5.3. The activities will be carried out at a location or locations to be designated by Client, which locations are to be communicated to Oxyma in advance and in a timely fashion. In the event of change of the agreed locations article 3.3.7 will apply.

ARTICLE 3.6. COOPERATION ON THE PART OF CLIENT

- 3.6.1. Client will arrange an adequate and safe workplace for the Employee in accordance with the applicable health and safety regulations and legislation.
- 3.6.2. Client will at all times and in a timely fashion provide the Employee with all information, useful and necessary data and information that are required for a proper execution of the activities by the Employee.
- 3.6.3. If activities are carried out on-site for the Client, Client will provide Oxyma free of charge for the period required for the execution of the Agreement with: adequate workspace, user facilities on computer systems, adequate telecommunication facilities, such as telephone, fax and unrestricted internet access and of sufficient speed, as well as any other facilities requested by Oxyma in a timely fashion.
- 3.6.4. Article 1.13.2 applies in full to personnel of Oxyma deployed as Employee.
- 3.6.5. Client is obliged to take such measures and to provide instructions as are reasonably necessary to prevent the Employee from sustaining damage in the performance of the activities and is aware of the liability as referred to in Article 7:658 paragraph 4 of the Dutch Civil Code.
- 3.6.6. Client indemnifies Oxyma against any claims (of Employee) pursuant to Article 7:658 paragraph 4 of the Dutch Civil Code (industrial accidents).



- 3.6.7. Client indemnifies Oxyma against all and any claims of the Employee in connection with damage sustained by Employee if an item belonging to the Employee is damaged or lost in the execution of the activities for Client.

ARTICLE 3.7. OBLIGATIONS ON THE PART OF OXYMA

- 3.7.1. Within the context of the execution of activities Oxyma will ensure that its Employee will conform to Client's standard procedures and/or company rules and regulations. The Employee(s) will be fully informed of these and will receive a copy of these standard procedures and/or company rules and regulations prior to the execution of the activities in a timely fashion insofar as possible.
- 3.7.2. Oxyma or its Employee is not authorized in any way to bind Client by law within the context of fulfilment of the Agreement.

ARTICLE 3.8. TRAINING, EXPERTISE AND EXPERIENCE

- 3.8.1. Oxyma guarantees Client that the Employee is capable in terms of level of training, expertise and experience of adequately taking on and carrying out the anticipated activities.
- 3.8.2. If Client reasonably believes that the Employee lacks one or more of the qualifications referred to in article 3.8.1, or does not in the Client's opinion carry out the activities properly, Client will be entitled to demand replacement of the Employee. Article 3.9 shall apply mutatis mutandis.
- 3.8.3. Articles 1.6.2c and 1.6.2d do not apply.

ARTICLE 3.9. REPLACEMENT OF DESIGNATED EMPLOYEE, ILLNESS AND LEAVE

- 3.9.1. During the term of the Agreement Oxyma is entitled, without being obliged to any compensation and/or contribution to the costs, to replace an Employee by another Employee.
- 3.9.2. If it is foreseeable that the Employee will not be able to carry out activities for Client for a period of more than ten (10) Working Days because of illness or for whatever other cause, Oxyma will see to a replacement as soon as possible, whether with equal qualifications or otherwise.
- 3.9.3. In the event of illness the Employee will report this to Oxyma. Oxyma will forthwith pass on this information to Client.
- 3.9.4. If the Employee wants to take a holiday under an agreement or employment agreement that he or she has with Oxyma, this will be determined in joint consultation between the Employee, Oxyma and Client. Client cannot refuse to allow the Employee's holiday for unreasonable grounds, but Client may require Oxyma to call in a replacement Employee, whether with equal qualifications or otherwise.
- 3.9.5. If a party believes that personnel of the other party does not function properly or is not prepared or capable of carrying out the activities properly, such party will be entitled to demand from the other that this personnel be replaced, unless the other party cannot be reasonably required to do so.
- 3.9.6. The costs for training replacement personnel shall be borne by the party that requested the replacement, unless the request for replacement was based on the personnel's non-functioning or inadequate functioning.

ARTICLE 3.10. REIMBURSEMENTS AND COSTS



- 3.10.1. Travel and lodging costs, also commuting costs for the Employee between the location(s) where he/she will carry out the activities, will be reimbursed by Client in accordance with article 1.4.4, unless otherwise agreed.
- 3.10.2. Client will not owe Oxyma any reimbursement for the period that the Employee was incapable of carrying out the agreed activities on account of illness, holidays or for any other reason, unless a replacement Employee is deployed by Oxyma under article 3.9.4.
- 3.10.3. If and insofar as necessary according to Client for the Employee to work extra hours outside Working Hours, such will be agreed on in advance in joint consultation with Employee, Oxyma and Client. Article 1.4.6 shall apply mutatis mutandis in respect of these hours outside Working Hours.
- 3.10.4. In addition to the provisions of article 1.4.6 Oxyma will also be entitled to adjust the agreed prices and rates in the event of the Employee's increase of the wage costs as a result of (an amendment of) a government measure, or other binding regulation, or as a result of (an amendment of) social security costs or tax legislation.

ARTICLE 3.11. INVOICING, PAYMENT AND HOUR RECORDS

- 3.11.1. The hours to be charged by Oxyma will be determined on the basis of the hours recorded in Oxyma's time record system. Any time registration form submitted by Client is to correspond with this on the understanding that in the event that the latter does not correspond to the information of Oxyma's time record system, Oxyma's time record system shall prevail.
- 3.11.2. An invoice will be drawn up per calendar month by Oxyma for each Employee. Upon the Client's first request Oxyma will provide a written specification of the time registration.
- 3.11.3. Oxyma guarantees Client that it will withhold and pay to the designated bodies all wage tax and social security contributions due by Oxyma with regard to the Employee who is deployed. Oxyma indemnifies Client against all claims of third parties that might arise with regard to the above wage tax and social security contributions.

ARTICLE 3.12. CONFIDENTIALITY

- 3.12.1. Oxyma guarantees that for the duration of the Agreement referred to in this section as well as after the termination of this Agreement it will at all times observe confidentiality towards third parties with regard to confidential information concerning the Client's business operations and the business operations of Client's customers and all other information to be reasonably qualified as confidential. Oxyma will also impose such obligation on the Employee. Upon Client's first request Oxyma will arrange a confidentiality statement to be signed by the Employee.
- 3.12.2. Upon termination of the Agreement referred to in this section, Oxyma will return to Client all items that its Employee received from Client or has manufactured for Client for the purposes of the execution of the activities under the relevant Agreement.

ARTICLE 3.13. INTELLECTUAL PROPERTY RIGHTS

- 3.13.1. If and insofar as Employee creates a work or something else in the execution of his activities for Client, either along with others on which intellectual property rights rest or may rest, Oxyma will grant Client an unlimited and irrevocable licence and Oxyma will, upon Client's first request, immediately grant all required assistance to transfer the relevant intellectual property rights. Oxyma will furthermore grant all required assistance if any act is required of Oxyma to create an intellectual property right and/or to have such transferred to Client.



3.13.2. Oxyma guarantees that the works created by the Employee in the execution of his activities for Client shall not infringe third parties' intellectual property rights. Oxyma indemnifies Client against claims of third parties in respect of an infringement committed by Employee in the execution of the activities for Client.
