

## Conversify General Terms & Conditions

### Article 1 Definitions

1.1 In these General Terms, the following terms shall have the following meaning:

<b>Client</b>	Any legal person that enters into an agreement with Conversify for use of the Service;
<b>Conversify</b>	Conversify B.V., a company with limited liability, having its offices at Herestraat 113, 9711 LG Groningen, The Netherlands, registered with the Chamber of Commerce under the number 61589535;
<b>General Terms</b>	These general terms and conditions;
<b>Service</b>	An automatic analysis of the behaviour of visitors of the Website of a Client, including but not limited to a Webshop, as well as the automatic use of such analysis in an attempt to enhance conversion on the relevant Website of a Client;
<b>Webshop</b>	A web shop which is owned and/or managed by the Client;
<b>Website</b>	<a href="http://www.conversify.com">www.conversify.com</a> ;
<b>Website of a Client</b>	A website which is owned and/or managed by the Client.

1.2 Clause headings are included for ease of reference and do not influence the content of these General Terms.

### Article 2 Applicability

2.1 These General Terms apply to any and all use of the Service.

2.2 The applicability of other general terms and conditions, including, but not limited to, the general terms and conditions of the Client, are explicitly rejected and do not form part of any use of the Service.

2.3 If one or more provisions of these General Terms are invalid, the other provisions of these General Terms remain applicable in full. In any such case, the parties shall act in consultation for the purpose of agreeing one or more new provision(s) to replace the invalid provision(s). Such replacement provision(s) shall meet the purpose and tenor of the original (invalid) provision(s) as closely as reasonably possible.

2.4 Any deviations from the General Terms are only valid if and when agreed upon in writing and duly signed by both Conversify and Client.

- 2.5 Conversify reserves the right at any time to amend these General Terms and/or to add additional terms. Conversify shall notify the Client in advance of any amendment or addition to the General Terms.
- 2.6 If a Client does not wish to accept the amendment of the General Terms, the Client shall be entitled to terminate the agreement to use of the Service as per the date on which the amended general terms and conditions are set to take effect.

### **Article 3 Use of Service**

- 3.1 After subscribing on the Website and installation of a software tool in accordance with the instructions of Conversify, the Client shall be enabled to make use of the Service.
- 3.2 As of the commencement of the use of the Service, the behaviour of visitors of the Website of the Client is analysed and the Website of the Client is – depending on the outcome of the analysis – optimized, including but not limited by means of the display of certain messages and/or information relating to products and/or services and/or terms of the Websites of the Client, in an attempt to improve the conversion on the Website of the Client.
- 3.3 The behaviour of visitors of the Website of the Client is analysed with the use of various types of cookies, which are automatically provided by the Client to Conversify upon installation of the software tool referred to in article 3.1.
- 3.4 As soon as the Client is enabled to use the Service, as referred to in article 3.1, the Client shall also be granted access to a part of the Website that is exclusively available to the Client. Such access shall be granted by Conversify by means of the distribution of a log in and unique password.
- 3.5 Via the exclusively available part of the Website as referred to in article 3.4, the Client shall have access to (inter alia):
- (i) An overview of the optimization that has been executed and how often such optimization was showed to visitors of the Website of the Client;
  - (ii) How many unique visitors of the Website of the Client have viewed an optimized version of the Website of the Client;
  - (iii) How many conversion the optimization has resulted in;
  - (iv) How many revenue was generated pursuant to the aforementioned conversion.

### **Article 4 Duration and termination of use of Service**

- 4.1 An agreement for the use of the Service is entered into for an indefinite period of time.
- 4.2 The Client has the right to terminate the agreement for the use of the Service in writing, taking into account a notice period of at least one (1) month.
- 4.3 Conversify has the right to terminate the agreement for the use of the Service in writing, taking into account a notice period of at least one (1) month.
- 4.4 In deviation of article 4.3, Conversify shall have the right to terminate the agreement for the use of the Service with immediate effect in the event:

- (i) The Client breaches any applicable laws and/or regulations;
- (ii) The Client breaches the terms and conditions of the agreement for the use of the Service and/or any of the terms of these General Terms;
- (iii) The Client is declared bankrupt or is granted a moratorium of payments;
- (iv) The Client is dissolved.

4.5 Termination of the agreement for the use of the Service shall in all events be done in writing, which includes e-mail.

4.6 In the event the agreement for the use of the Service is terminated, the Client shall immediately cease the use of the Service. Upon termination of the Agreement, the Client shall no longer be granted access to the exclusively available part of the Website as referred to in article 3.4 and Conversify shall discontinue the Clients ability to use the Service.

## **Article 5      Fee**

5.1 The Client shall be obliged to pay a fee to Conversify as of the moment of subscription as referred to in article 3.1. Such fee shall be a fixed fee per month (or a part thereof), based on a maximum number of visitors of the Website of the Client. In the event such maximum is exceeded in any month, the Client shall be obliged to pay an additional fee for each visitor in excess of such maximum. Unless Conversify and the Client have agreed otherwise in writing, the fees due and payable by the Client shall be the fees as displayed (and amended from time to time) on the Website.

5.2 After each calendar month, Conversify shall provide the Client with an invoice, which shall comprise of the fixed fee and the additional fee, if and when such additional fee is due and payable. The fees are based on the actual number of visitors on the Website of the Client in the relevant calendar month.

5.3 The fees as referred to in article 5.1 shall be increased with VAT (if and when applicable).

5.4 Payment of any invoice by the Client shall be done without delay, deduction, withholding and/or set off.

5.5 In the event the Client fails to timely and/or fully pay an invoice within the relevant payment term, the Client shall be in default by operation of law. In such event, the Client shall be obliged to pay the statutory trade interest as referred to in clause 6:119a of the Dutch Civil Code with regard over the not paid amount until the date of full payment. In addition, the Client shall be obliged to pay the extrajudicial costs in respect of the not paid amount as referred to in the act on the standardization of extrajudicial collection costs (*in Dutch: wet normering buitengerechtelijke incassokosten*) and relevant rules and regulations.

## **Article 6      Obligations Client**

6.1 The Client is obliged to adhere to any and all applicable laws and regulations, including but not limited to the laws and regulations on the use of cookies and the transfer of data in connection therewith to Conversify. The Client indemnifies and agrees to hold Conversify harmless from any and all claims in connection with any breach of relevant laws and regulations by the Client.

6.2 The log in and unique password distributed to the Client by Conversify are strictly personal and the Client is obliged to maintain those secret. The Client shall be solely responsible and liable for any and all (mis)use of such log in and unique password. In the event of loss, theft and/or misuse of the log in and/or the unique password, the Client shall be held to immediately notify Conversify thereof in writing.

#### **Article 7      Activities of Conversify**

7.1 Conversify shall use any and all data with regard to the Client, as provided to Conversify by the Client, solely for the performance of its obligations under the agreement for the use of the Service.

7.2 Conversify shall not collect and save personal data with regard to visitors of the Website of the Client, unless necessary for the performance of its obligations under the agreement for the use of the Service.

7.3 Conversify shall in no event sell any data provided by the Client (both with regard to the Client and any data from visitors of the Website of the Client) to any third party.

7.4 Conversify shall use its best efforts to provide the Service to the Client, but Conversify does not guarantee the continued and uninterrupted availability and accessibility of the Service. More specifically, Conversify does not guarantee – and shall not be liable – the availability of any and all necessary telecommunication services for access to the Service.

#### **Article 8      Intellectual Property**

8.1 All rights of intellectual property with regard to the Service and the corresponding software are and will continue to be held by Conversify.

8.2 Conversify herewith solely grants a right to use the Service to the Client for the duration of the agreement for the use of the Service. Such right is limited to the necessity to actually make use of the Service.

8.3 The Client shall in no event be entitled to make any modification to any part of the software that forms a part of the Service. In addition, the Client shall not be entitled to make a copy thereof, to decompile the software or a part thereof and/or in any other manner amend the software.

#### **Article 9      Liability**

9.1 In the event Conversify is liable towards the Client for any damage suffered by the Client, such liability shall in all events be limited to direct damages and not for any indirect damages. Indirect damages include, but are not limited to loss of goodwill, loss of profit and lost savings.

9.2 Any non performance of its obligations by Conversify shall not be attributable to Conversify (and Conversify shall in such event not be liable) in the event of force majeure.

9.3 Force majeure shall mean: circumstances or events that are beyond Conversify's control and will - irrespective of whether these circumstances or events were foreseen or could be foreseen at the moment of entering into any Agreement – as a result of which Conversify is

unable or cannot reasonably be expected to meet its obligations under any Agreement. These circumstances or events comprise in any case, but not exclusively: war, fire, floods, earthquakes, labor disputes, strikes, epidemics, government rules and/or similar rules, embargos, non-performance by client(s) or subcontractors or any other third party/parties deployed by Conversify or client(s) for the execution of any Agreement, interruption of the electricity supply, the non-availability of telecommunication services, software errors, inaccuracy and/or incompleteness of the Product Information provided by client(s) and (attempted) unauthorized intrusion in and/or the unauthorized use of the systems, networks and databases that belong to Conversify and/or the client(s) and/or which Conversify and/or the client(s) depend on and also all poorly performed work.

- 9.4 In the event Conversify is liable towards a Client, such liability shall in all events be limited to the amounts paid by the Client to Conversify in respect of the agreement for the use of the Service. In the event the agreement for the use of the Service has a duration in excess of six (6) months, the liability of Conversify shall be limited to the amounts paid by the Client to Conversify in respect of the agreement for the use of the Service during the last six (6) months of such agreement for the use of the Service.
- 9.5 The liability of Conversify shall – notwithstanding the aforementioned articles – in all events be limited to the lower of (i) the amounts paid out by Conversify’s insurance company in respect of the damage or (ii) EUR 5.000,- (in words: five thousand Euro) per incident, whereby series of incidents shall be considered to be one incident.
- 9.6 Any claim of the Client against Conversify shall lapse three (3) months after which the event causing the damage have become known to the Client, unless the claim is explicitly accepted by Conversify.

## **Article 10      Miscellaneous**

- 10.1 In the event any term of these General Terms is declared void or invalid, the other terms shall not be affected and shall remain in full force and effect.
- 10.2 Transfer by the Client of any agreement and/or the rights pursuant to such agreement and/or these General terms, shall only be valid after the prior written approval of Conversify.
- 10.3 These General Terms and any agreement to which these General Terms apply, shall be exclusively governed by Dutch law.
- 10.4 Any disputes arising from or related to the agreement or these General Terms and Conditions shall be exclusively settled by the competent court of Noord-Nederland.