

Terms and Conditions (v. 1.0)

Terms and conditions for WYZ, located in The Netherlands, Utrecht, Plesmanlaan 50 II, 3555 AP, registered with the Chamber of Commerce in Utrecht under number 24.20.65.64.

1. Definitions

1. Account: the customer name allowing CUSTOMER access to WYZ's system.
2. Agreement: the agreement between WYZ and CUSTOMER which is the basis for the service supplied by WYZ.
3. Annex: appendix with the agreement and / or Terms and Conditions.
4. Bandwidth: the amount of Data Traffic which can be transferred through a connection per time unit.
5. Data Traffic: all traffic which is generated by CUSTOMER's website or (virtual) server, incoming and outgoing.
6. Disk Space: the amount of space on the WYZ server allocated for CUSTOMER to store data.
7. E-mail address: an address code in the CUSTOMER's name in order to exchange electronic messages via the Internet.
8. Hardware: computer- and related equipment.
9. Hosting: placing and administrating data on a server.
10. Internet Connectivity: the connection to the internet used by CUSTOMER's website and / or equipment, hosted by WYZ. Internet Connectivity can be offered as a data traffic or bandwidth package.
11. Log-In Procedure: the procedure determined by WYZ allowing CUSTOMER to gain access to the system and the Internet.
12. Netiquette: the generally accepted code of conduct on the Internet as noted in RFC 1855 (<ftp://tp.ripe.net/rfc/rfc1855.txt>) and future adaptations of said document.
13. Network: the equipment used for transferring and (if applicable) routing as well as other technical means enabling signals to be transferred between connection points via cables, radio waves, optical means and other electro magnetic means and insofar these are controlled by WYZ.
14. Operating System: The software interface installed on a System, responsible for the management and coordination of activities and the sharing of the resources of the System.
15. Server: a computer which is hooked up to the Internet and used to exchange and store data.
16. Service: The specified service agreed upon by WYZ and CUSTOMER as documented in the Agreement.
17. Service Level: a predetermined level of support binding WYZ to a service package which is specified in the Agreement.
18. Spamming: bulk sending of large amounts of unsolicited e-mails with similar contents and / or posting in large amounts of news groups on the Internet of messages with similar contents. These include Opt-Out mailings.
19. System: computer equipment and peripherals enabling WYZ to allow CUSTOMER access to the Internet and Hosting services.
20. Usage: the amount of Data Traffic and / or Bandwidth used by CUSTOMER during a period of one month.
21. Virtual Private Server (VPS): A System acting as a standalone Server in all important aspects, enabling CUSTOMER to install and administer an Operating System and Hosting services of choice on this System independently. The VPS shares resources with other Systems located on Hardware that is administered by WYZ.
22. Website: one or more integrated Internet pages.

2. General

1. These Terms and conditions are applicable to all offerings and agreements in which WYZ provides goods or services of any kind to a third party - from here on to be called CUSTOMER, along with goods or services which are not (in detail) specified in these agreements. Deviation of these Terms and Conditions is only legal if these have been agreed upon in writing.

2. Applicability of possible purchase, or other conditions from CUSTOMER is explicitly denied. At the time of the actualization of the Agreement, CUSTOMER is bound to the explicit applicability of these Terms and Conditions. This is also applicable to additional orders placed by CUSTOMER, either spoken, by telephone, by fax, by e-mail or by any other means conveyed to WYZ, making a written confirmation by WYZ not (again) necessary.
3. Deviating Terms and Agreements only apply if and when WYZ has accepted these explicitly and in writing.
4. All offers made by WYZ are without obligation. Only after an acceptance in writing by WYZ an Agreement is established. An invoice sent by WYZ is equal to a written acceptance. WYZ reserves the right to refuse a would-be customer for reasons left to her discretion.
5. A representative wishing to come to an agreement on behalf of a legal entity may be requested by WYZ to produce their authorization in the matter.
6. Transactions will be made based on pricing at the time the Agreement was established. Prices are in Euro (€) and not including VAT, feasible tolls, rights and / or transaction charges, unless agreed upon otherwise.
7. Some of WYZ' services are outsourced to third parties. WYZ accepts no responsibility for services provided by third parties.
8. CUSTOMER hereby authorizes WYZ to add his or her personal details to her database needed for administrative and operational tasks. This database is only accessible to WYZ and is not passed on to third parties, unless WYZ is obligated to by law or court order. CUSTOMER is to notify WYZ as soon as possible in case of alterations in relevant data.
9. CUSTOMER will convey all changes to her contact details by mail or e-mail to WYZ. WYZ will only communicate with known contacts provided by CUSTOMER. CUSTOMER will ensure the contacts are available for telephone, e-mail and/or other specifically agreed upon means of electronic communication.

3. Delivery

1. Delivery means placing a website on the Internet, connecting for usage of the (Virtual Private) Server and / or the computer equipment and or / realizing other services or transferral of products.
2. Delivery periods can only be estimated. Exceeding the delivery time never entitles CUSTOMER to be paid damages or cancellation of the order.
3. If, due to circumstances, even in case they have a cause within WYZ itself, WYZ is temporarily or permanently unable to fulfill the order partially or completely, WYZ reserves the right to partially or completely cancel or decline the order. WYZ will notify CUSTOMER of such decisions.
4. Complaints concerning fulfillment of the agreement, functioning of the system, performance of the website have to be issued in writing. These complaints are regularly inventoried and subsequently action is taken to improve on the situation.
5. CUSTOMER is expected to allow WYZ to investigate and correct the complaints. In the event of not living up to the letter of the previous article CUSTOMER waives all claims.
6. Complaints have no effect on CUSTOMER's payment obligations.
7. The ownership of products passes from WYZ to CUSTOMER only when underlying invoice has been completely paid.

4. Payment

1. All payments have to be made in advance, unless otherwise agreed upon in writing. Services are invoiced each month in advance, unless otherwise agreed upon in writing. Services will be paid via direct debit, unless otherwise agreed upon in writing.
2. Invoices are only payable to WYZ for completion.
3. In case of payment more than fourteen (14) days after receiving the invoice, CUSTOMER will owe two (2) percent interest per month over the total amount without a notification or court order.
4. In case of late payment WYZ reserves the right to suspend or cancel the services to CUSTOMER without notification or announcement until all unpaid invoices have been paid, irrespective of payment deadline.

5. In case of late payment WYZ will be allowed to claim in-court and out of court costs with CUSTOMER.
6. WYZ is authorized to change tariffs, pricing of payment and other costs. These changes will be announced to CUSTOMER at least one (1) month in advance through usual channels, accompanied by reasons for these changes. If CUSTOMER does not wish to submit to these changes, he or she is authorized, notwithstanding these Terms and Conditions, up until the time of the actuation of the change, to cancel the service per the date of the change.

5. Usage

1. WYZ supplies internet connections purchased from third parties. Websites are placed on her own servers or those of third parties. Servers are placed in leased locations.
2. CUSTOMER is authorized to utilize the help desk for support during regular Dutch office hours.
3. CUSTOMER will refrain from hindering or damaging other customers, Internet users or the WYZ system. It is specifically prohibited to engage processes or applications -be it through the system or not- if CUSTOMER can suspect within reason this will cause hindrance or damage to WYZ, other customers and Internet users.
4. It is prohibited to utilize the connection with WYZ, the system and the disk space for illegal demeanor, actions and / or demeanor conflicting with applicable legislation, the Netiquette, regulations of the "Reclame Code Commissie", the agreement or these Terms and Conditions. This implies among other things (but not exclusively) the following actions and demeanors: Spamming; violation of legally protected works or other demeanor conflicting with intellectual property rights held by third parties; publication or distribution of child pornography; sexual intimidation or any other kind of harassment; gaining access to computers or computer systems on the Internet without permission (hacking).
5. If WYZ feels CUSTOMER has engaged in any of the above mentioned demeanor, CUSTOMER will be disconnected from the system without restitution of the already payed usage fee and the agreement is terminated. WYZ reserves the right to claim any damages flowing from the issue with CUSTOMER.
6. CUSTOMER is not authorized to pass on his or her account or any other rights flowing from the agreement to third parties or allow third parties to use them, unless WYZ has specifically authorizes this action in writing.
7. Staff from or on behalf of WYZ will not gain knowledge of CUSTOMER's personal electronic mail or monitor CUSTOMER's actions on WYZ's system or other systems on the Internet, unless WYZ has a strong suspicion that CUSTOMER is using the WYZ system to either hack other computers or is using WYZ's services for any other illegal or otherwise illegitimate demeanor.

6. Access

1. WYZ is authorized to block CUSTOMER's access to the website, his and / or her e-mail and / or Internet access temporarily if CUSTOMER has failed or partially to meet a commitment or if he or she is acting in a way conflicting with the applying Terms and Conditions.
2. Reinstating of CUSTOMER's privileges will occur if and when CUSTOMER has met his or her commitments within a time frame specified by WYZ.
3. WYZ is authorized to deny or limit CUSTOMER's Internet Connectivity if CUSTOMER exceeds monthly allocated data traffic quota. The suspension or limitation is lifted only after CUSTOMER has met or proven his or her willingness to meet the applying payment requirements to WYZ's satisfaction.
4. WYZ reserves the right to assert limiting measures in case of extreme data traffic.
5. WYZ cannot be held accountable for any damages flowing from the suspension or limiting mentioned in this article. Suspension or limiting of access does not free CUSTOMER of their payment obligation.

7. Administration

1. WYZ is authorized to shut down the system (temporarily) or limit its use without prior notice as

needed in order to perform reasonably urgent maintenance, without this bringing about an obligation to pay damages for WYZ to CUSTOMER.

2. WYZ is authorized at all times to make alterations to the Account, Log-In Procedures and E-mail addresses without this bringing about an obligation to pay damages for WYZ to CUSTOMER. In such a case WYZ will notify CUSTOMER of the changes as early as feasible.
3. WYZ provides the availability of the WYZ systems, and takes the greatest effort to provide optimal availability. However WYZ cannot be held accountable for outages or limited availability of the WYZ systems due to circumstances not to be foreseen within reason. Among other things, these include discontinuations Internet Connectivity by the Upstream Provider, outages in the telephone network, disruptions in the electrical network, prolonged heavy Denial of Service attacks by unknown third parties, and any other outages outside the power of WYZ. Nor can WYZ be held accountable for damages flowing from necessary maintenance by or on behalf of WYZ.

8. Accountability

1. CUSTOMER will be held accountable for any damages to WYZ in case of action or inaction by CUSTOMER in violation of the obligations flowing from these Terms and Conditions.
2. CUSTOMER will be held accountable for any damages to WYZ in case of the illegitimate or wrongful use of any service by WYZ. For each day CUSTOMER is in violation, he or she forfeits an immediate claim of € 100.-- for each violation or for each day as WYZ chooses.
3. Customer waives all claims made against WYZ by third parties in case of damages caused by the use of or because of CUSTOMER's use of WYZ's services.
4. WYZ cannot be held accountable for security and / or storage of any data stored, if this accountability is not explicitly mentioned in an Agreement.
5. WYZ accepts no responsibility whatsoever for damages resulting from late or incorrect placement or relocation of a Website, E-mail, equipment and / or any other Internet application of CUSTOMER.
6. WYZ accepts no responsibility whatsoever for damages resulting from outages or unavailability of a Website, E-mail, equipment and / or any other Internet application of CUSTOMER.
7. Should WYZ be responsible for any damages, this responsibility is always limited to compensation of direct damages up to the amount agreed upon in the particular Agreement, with a maximum of € 5,000.--. If the agreement mainly is one with a contract length of more than one year, the agreed amount is set to the total of the compensations agreed upon for one year.

9. Duration

1. An Agreement is made for a duration of 12 months, unless an other duration has been agreed upon in writing. The Agreement is extended automatically and silently annually for an equal term.
2. Cancellation notice of the contract is two (2) calendar months, taking into account CUSTOMER can only cancel contracts per the first day of the month. Cancellation is only possible at the end of the initial term specified in the Agreement.
3. A cancellation can be made either via regular mail or by e-mail. E-mail cancellation is only valid upon acknowledgment of reception of the e-mail (by way of either returning e-mail or an SMTP acknowledgment message from a WYZ e-mail server).

10. Termination

1. If CUSTOMER fails to comply with an obligation following from an Agreement made with WYZ or these terms and conditions, or if WYZ has serious and underpinned doubts about CUSTOMER's ability to meet contract requirements towards WYZ, WYZ is authorized, without notification or legal intervention, either to suspend services or to completely terminate the agreement, without WYZ being accountable for any damages, and notwithstanding WYZ's further due rights.
2. WYZ is authorized to partially or completely terminate the agreement - effective immediately - without prior notice if CUSTOMER: provides WYZ with false and/or incorrect personal data; has neglected to submit alterations of personal data; has entered the agreement under false pretenses; acts in ways conflicting with these Terms and Conditions; has been declared bankrupt or has filed for bankruptcy herself; has filed for suspension of payment; is being curated or annulled; is being

- liquidated, or if any executorial impound is made from CUSTOMER.
3. WYZ reserves the right to cancel the contract without reason but with restitution of the unused usage fee, if CUSTOMER commits unacceptable behavior; such to the judgment of WYZ.
 4. Cancellation by WYZ on account of articles 10.1 and / or 10.2 do not free CUSTOMER of his / her payment obligations. CUSTOMER will pay the subscription fees for all current services from the actual cancellation date up to the end date in the contract within five (5) working days.

11. Force Majeure

1. Force majeure shall be deemed to refer to all external causes which were not reasonably foreseeable and as a result of which WYZ is not able to fulfill its obligations towards the customer. These include, non exclusively, faults in the Internet Connection, faults in the telecommunications infrastructure and faults in networks.
2. WYZ reserves the right to invoke force majeure, if the circumstance which prevents (further) fulfillment of an obligation, occurs after a date when WYZ was required to fulfill that obligation.
3. During the period of force majeure the delivery and other obligations of WYZ shall be suspended. If The period during which WYZ is unable to fulfill its obligations as a result of force majeure lasts longer than two (2) weeks, each of the parties shall be authorized to dissolve the agreement without recourse to the court, without the other party having any right to compensation.

12. Disputes

1. All agreements between WYZ and the customer shall be governed by the law of the Netherlands. The court of Amsterdam shall have exclusive jurisdiction in the event of disputes resulting from or relating to agreements between WYZ and the customer.
2. If the customer, not acting in the exercise of a profession or business, does not agree with the election of jurisdiction in article 17.1, he or she shall be authorized, no later than one (1) month after WYZ has made use of article 17.1, to elect to have the dispute settled by a legally competent court.
3. If one or more provisions of these general terms and conditions is/are declared invalid or voidable, the validity of the remaining provisions shall be unaffected.

13. Workings

1. WYZ is authorized at all times to alter these terms and conditions. Changes will be final one (1) month after announcement on the website.
2. In the case that articles in the Agreement, its Annexes or the Terms and Conditions are in conflict, the the following order of governance applies: the Agreement, the Annexes, the Terms and Conditions.
3. These Terms and Conditions render all previous ones obsolete.
4. While every effort has been made to provide an accurate translation, the legally binding version of these Terms and Conditions is the Dutch version.

The PDF document containing the legally binding Dutch translation of this document has the following sha1sum:
f8875e9ce64b3b15417865b6f57330356af2cbd0