



General terms and conditions

General terms and conditions of WeSeeDo

Index

Chapter	page
1. General	2
2. Price and payment	2
3. Duration and termination	3
4. Services	3
5. Right of use	4
6. Development	5
7. Implementation	6
8. Maintenance and support	6
9. Liability of the Supplier	7
10. Force Majeure	8
11. Privacy and processor's agreement	8
12. Applicable law and disputes	9

1. General

- 1.1 These general terms and conditions shall apply to any and all offers and agreements under which Eilie Telecom B.V. (listed with the Chamber of Commerce under number 0116457; hereinafter "Supplier") acts as a provider or supplier of goods and/or services of any nature to the Client with regard to WeSeeDo.
- 1.2 The applicability of any purchase conditions of the Client or other general terms and conditions is hereby explicitly rejected.
- 1.3 The Parties may only deviate from these general terms and conditions in writing.
- 1.4 If any provision of these general terms and conditions appears to be void or is nullified, the remaining provisions shall remain in full force. In such a case the Parties shall conduct consultations and agree upon new provisions to replace the void or nullified provisions.
- 1.5 In the event of disagreement regarding the interpretation of these general terms and conditions, the Dutch version shall prevail.

2. Price and payment

- 2.1 All prices are expressed in the specified currency, excluding VAT and other levies imposed by the authorities, unless explicitly stated otherwise. The Supplier does not accept any payments in currencies other than the specified currency. In the absence of a specified currency, all prices are in Euros. All offers or quotations relating to the services of the Supplier are without obligation and revocable until the Supplier electronically confirms that the agreement with the Client is formed.
- 2.2 In the event of a periodic payment obligation of the Client, the Supplier may adjust its prices and rates in accordance with the period referred to in the agreement. If the agreement does not explicitly specify the option of the Supplier to adjust its prices or rates, the Supplier is always authorised to adjust its prices and rates in writing with due observance of a period of two months. If, in the latter case the Client does not wish to agree to the adjustment, the Client may give notice to terminate the agreement in writing within thirty days after notification of the adjustment, with effect from the date on which the new prices and/or rates will come into effect.
- 2.3 The Client shall pay the amounts due in advance or in compliance with the payment conditions stated on the invoice. The Client is not authorised to suspend any payment, or to set off any amounts owed. The fee is also payable if the Client does not use the services and/or software.
- 2.4 If the Client fails to pay the amounts due, or fails to pay them fully and in good time, the Client shall owe statutory interest for trade agreements on the outstanding amount (in accordance with Article 6: 119a of the Dutch Civil Code) without any warning or notice of default being required, and the Supplier will immediately be entitled to suspend its services without further notice. If the Client, after receiving a warning or notice of default continues to fail to pay the invoice, the Supplier may pass on the claim to a collection agency, in which case the Client shall owe all the judicial and extrajudicial costs including lawyer's fees in addition to the total payable amount. All this without prejudice to the other legal and contractual rights of the Supplier, including the immediate termination of the agreements and/or discontinuation of the services.
- 2.5 The data in the books and records of the Supplier shall constitute full evidence of the performance of the Supplier and the amounts payable by the Client, without prejudice to the right of the Client to submit proof to the contrary.
- 2.6 The Supplier is authorised to transfer or pledge its claims on the payment of fees to a third party.

3. Duration and termination

- 3.1 If and to the extent that the parties have concluded a continuing performance contract, such contract is entered into for the period agreed by the parties, in the absence of which the term of the agreement shall be one year.
- 3.2 The term of the agreement will be tacitly renewed for the duration of the originally agreed term, unless either party gives notice to terminate the agreement with due observance of the minimum term of one month prior to the renewal date or in a legally valid manner. The Client is not authorised to prematurely terminate an agreement with the Supplier which has been entered into for a definite period.
- 3.3 If an agreement with an indefinite period is not discharged by performance it may be terminated in writing by either party, stating reasons. If the parties have not agreed upon a notice period, a reasonable period shall be observed when the agreement is terminated.
- 3.4 Either party is authorised to terminate the agreement due to an attributable failure in the performance of the agreement (as referred to in Article 6:265 DCC). Payment obligations of the Client and all obligations to cooperate and/or supply information of a Client or a third party engaged by a Client shall in all cases constitute essential obligations under the agreement. The Client shall only have the authority to terminate the agreement if the Supplier, after receiving a written notice of default specifying the default in as much detail as possible and granting a reasonable period to the Supplier to remedy the failure, still attributable fails to fulfil essential obligations under the agreement.
- 3.5 If services have already been provided to the Client in performance of the agreement when the agreement is terminated, these services and the associated payment obligations cannot be revoked, unless the Client proves that the Supplier is in default with regard to the essential part of such performance. Amounts invoiced by the Supplier before termination in connection with the services already provided by the Supplier in performance of the agreement shall remain payable with due observance of the provisions referred to above and shall be immediately due and payable at the time of termination.
- 3.6 Either party to the agreement may terminate the agreement or part thereof in writing if the other party is granted a moratorium - whether or not provisional – or if bankruptcy is filed for in respect of the other party, or if the business of the other party is liquidated or terminated other than for the purpose of a reorganisation or merger of companies. In the event that the Client is irrevocably bankrupt, this shall immediately terminate the right of the Client to use the provided software, applications, websites and suchlike and the right of the Client to access and/or use the Supplier's services, without any act of termination on the part of the Supplier being required.
- 3.7 The Supplier shall never be required to pay any compensation due to notice or termination as a consequence of an (impending) failure on the part of the Client.

4. Services

- 4.1 The Supplier mainly provides services that enable remote communication, whether or not using video, images and sound. In general, these services have the nature of standardised SaaS services and are also provided through network connections, including the Internet, and equipment that is beyond the control of Supplier. The Supplier is not liable for not establishing communication or poorly functioning communication due to factors beyond its control, but will make an effort to ensure the optimum availability and performance of its services and/or software.
- 4.2 The Client itself is responsible for making regular backups and ensuring adequate information security of its data. The Supplier shall in no event be liable for any costs of (reproduction of) damaged or lost data, nor for any consequential damage or lost profits. During the use of the communication connections, the Supplier will endeavour to protect the data as well as is reasonably possible against loss, theft, unauthorised access and modification by third parties. The Supplier is not responsible for the content, accuracy and validity of the data provided by the Client or other users of the services through the services.

- 4.3 The Client is responsible for the operation of its hardware and software, configuration, peripheral equipment, required licenses and Internet connection necessary to use the services and/or software of the Supplier. The Client bears the risk of selecting the items, goods and/or services to be provided by the Supplier and shall always observe the utmost care to guarantee that the requirements to be met by the Supplier's performance are accurate, complete and known in good time.
- 4.4 The Client shall not cause any nuisance or damage to the Supplier or its Clients when using the services and/or software of the Supplier. The Client shall refrain from acts of which it can be assumed that they may cause damage to the systems of the Supplier or its customers. The Supplier always has the right to suspend, limit or block access of the Client to the services and/or software indefinitely without stating reasons if there is a suspicion of abuse or other improper use.
- 4.5 The Supplier may change its services without prior consent of the Client, even if this change leads to changes in the technical equipment or procedures used by the Client. Costs or damages resulting from this are for the account and risk of the Client. The Supplier is not required to maintain, adjust or add functionalities or properties to its services or software specifically for the Client. The Supplier shall inform the Client of any material changes to its services and/or software as soon as possible.
- 4.6 The Supplier may put its services and/or software or part thereof temporarily out of service for preventive, corrective and adaptive maintenance or other forms of service without being liable to pay compensation. The Supplier will not continue the period of inactivity any longer than necessary and will perform such maintenance as much as possible outside office hours.

5. Right of use

- 5.1 All the intellectual property rights under the agreement to the services, software, websites, databases, equipment, documentation, reports, offers, as well as preparatory material thereof, developed or made available to the Client shall remain exclusively with the Supplier, its licensors or its suppliers. The Client acquires the rights of use explicitly granted under these general terms and conditions, the written agreement concluded by the parties and the law. A right of use to which the Client is entitled is non-exclusive, non-transferable, and cannot be pledged or given in sublicense and shall be valid for the term of the agreement and the use thereof shall be in compliance with the agreement, these general terms and conditions and the legal obligations.
- 5.2 The Client shall not remove (or have removed) or change (or have changed) any notice(s) concerning the confidential nature or copyrights, trademarks, trade names or any other intellectual property rights of the software, websites, databases, equipment or materials without prior written consent of the Supplier.
- 5.3 Even if the agreement does not explicitly provide for this, the Supplier is permitted to install technical facilities for the protection of services, equipment, databases, websites, provided software, software to which the Client has access (directly or indirectly) and suchlike in regard to an agreed limit of the content or the duration of the right to use these objects. The Client shall not remove (or have removed) or circumvent (or have circumvented) such technical facilities.
- 5.4 The Supplier may, at its discretion, innovate its services, software and documentation. The Supplier shall notify the Client of the processing of updates and/or upgrades to the extent that these are relevant to the use of the services, software and documentation, all this at the discretion of the Supplier.

6. Development

- 6.1 If the parties have agreed to develop software and/or an alternative technical solution as customised work, the provisions of this article shall in particular also apply to the service concerned.
- 6.2 If a (functional) design of the software or other technical solution to be developed is not known in advance, the parties shall specify, in close consultation, which software or other technical solution will be developed and how the development will take place. Prior to commencing the development activities, the Supplier may require the Client to declare his agreement to the specifications or design in writing.
- 6.3 If the parties use a development method of an iterative nature, the parties accept that at the start the work will not be performed on the basis of complete and fully detailed specifications and also that specifications, which may or may not have been agreed at the start of the work, can be adjusted during the performance of the agreement by mutual agreement. The parties shall always make decisions regarding the specifications for the next phase of the project and/or for the next partial development jointly and in proper consultation. The Client accepts the risk that the software and/or other technical solution may not necessarily correspond to all the specifications.
- 6.4 The Client shall provide continuous and active input supported by the organisation of the Client and ensure the cooperation of relevant end-users, in particular with respect to testing and (further) decision-making. The Client warrants that the employees of the Client in key positions have the decision-making powers and sufficient knowledge required for such positions.
- 6.5 The Client guarantees diligence in the progress decisions to be made by the Client during the performance of the agreement. If timely and clear progress decisions are lacking on the part of the Client, the Supplier is entitled - but not required - to make decisions that, in its opinion, are appropriate.
- 6.6 The Client accepts the software and/or other technical solution in the condition it is in at the time of the end of the final development phase ("as is, where is"). The Supplier shall not be required to correct errors after the final development phase, unless agreed otherwise in writing.
- 6.7 In principle, the obligations of the Supplier do not include the maintenance of the software and/or other technical solutions and/or the provision of support to users and/or their managers. If, notwithstanding the foregoing, the Supplier is also required to provide maintenance and/or support, the Supplier may require the Client to enter into a separate written agreement thereto, such as a Service Level Agreement ("SLA"). These activities will be performed on the basis of a best efforts obligation and will be charged to the client separately at the usual rates.
- 6.8 The software and/or other technical solution to be developed will be regarded as accepted by the Client when the Client has taken the software and/or other technical solution into use and there is no question of any substantial non-compliance of the software and/or other technical solution with the functional and technical specifications explicitly made known to the Supplier in writing (the 'must haves').
- 6.9 The Supplier is not required to make available the source codes and the technical documentation and the necessary support software and program or data libraries required for the use and/or maintenance of the software, unless the parties have explicitly agreed otherwise in writing.
- 6.10 The Supplier does not guarantee that the software and/or other technical solution will work properly in conjunction with all types or new versions of web browsers and any other software. Nor does the Supplier guarantee that the software and/or other technical solution works properly in conjunction with all types of equipment.

7. Implementation

- 7.1 The Supplier shall try to the best of its ability to provide the services with due care, where appropriate in compliance with the agreements and procedures agreed with the Client in writing. All the services of the Supplier will be performed on the basis of a best efforts obligation, unless and insofar as the Supplier has explicitly committed to a result in the written agreement and this result is also specified in sufficient detail.
- 7.2 The Supplier will make available the services and/or software to the Client within a reasonable period after the conclusion of the agreement. The Client accepts the services and/or software in the condition they are in at the moment of delivery ("as is", "where is"), therefore with all the visible and invisible errors and defects.
- 7.3 All offers and other statements of the Supplier are without obligation, unless the Supplier has indicated otherwise in writing. The Client cannot derive any rights from delivery (terms) or (delivery) dates or cost estimates or expense budgets.
- 7.4 The Client himself remains responsible for compliance with all the legally required administrative and retention obligations under the legislation regarding the protection of personal data. The Client shall indemnify the Supplier against any and all claims in this regard, unless the Client proves that the facts underlying the claims are attributable to the Supplier. However, the Client does not guarantee that its services and/or software can be adapted in good time to changes in relevant laws and regulations in the context of maintaining the availability of the services and/or software.
- 7.5 If, according to the agreement concluded between the parties, the Client consists of several natural persons and/or legal entities, each of these (legal) persons is jointly and severally liable to the Supplier for the performance of the agreement.
- 7.6 If the Supplier has performed activities or other work beyond the substance or scope of the agreed activities and/or work (additional work) at the request or with the prior consent of the Client, such activities or work shall be reimbursed by the Client in accordance with the agreed rates and in default thereof the usual rates of the Supplier. However, the Supplier is not under an obligation to meet such a request and may demand that a separate written agreement be signed to that end. To the extent that a fixed price has been agreed for the services, the Supplier will inform the Client in writing of the financial implications of the additional activities or work referred to in this article, at the Client's request.
- 7.7 The Client may never sell, transfer or pledge his rights and obligations under the agreement.

8. Maintenance and support

- 8.1 The Supplier cannot guarantee that the software used for its services is completely error-free or will function without any disruptions or interruptions. However, the Supplier will endeavour to properly maintain its services and/or software to ensure the best possible user experience.
- 8.2 If the parties have agreed this, the Supplier will perform maintenance on the software specified in the agreement. The maintenance obligation includes the correction of errors in the software (the substantial failure of the software to meet the functional or technical specifications explicitly made known by the Supplier) following a detailed report by the Client.
- 8.3 After receiving the report, the Supplier will try to the best of its ability to correct errors and/or implement improvements in later, new versions of the software in accordance with its usual procedures. Depending on the urgency and the version and release policy of the Supplier, the results will be made available to the Client in the manner and at the time determined by the Supplier. The Supplier is entitled to implement temporary solutions, program bypasses or problem-avoiding restrictions in the software. The Client itself will install, set up and take into use the corrected software or the provided newer version and install, set up, set parameters and tune any support programs and, if necessary adjust the equipment used and the operating environment.

- 8.4 Correction of errors shall take place at a location to be determined by the Supplier. The Supplier is never under an obligation to recover any damaged or lost data.
- 8.5 The Client will provide all the cooperation required by the Supplier, including the temporary suspension of the use of the software and making backups of all the data. The maintenance performed by the Supplier shall not affect the responsibility of the Client to manage the software, including the settings and the manner in which the results of the use of the software are deployed.
- 8.6 Maintenance may also include the provision of new versions of the services and/or software, at the discretion of the Supplier. Following the release of an enhanced version of software, the Supplier is no longer obliged to correct any errors in a previous version and to provide support and/or maintenance for a previous version.
- 8.7 If the services of the Supplier also include support to users and/or managers under the agreement, the Supplier will give advice about the use and the functioning of the services and/or software via its website or by e-mail. The Supplier will process properly substantiated requests for support in a language accepted by the Supplier in accordance with its usual procedures within a reasonable period. The Supplier does not guarantee the accuracy, completeness or timeliness of the support provided. Support is provided on weekdays during the normal business hours of the Supplier.

9. Liability of the Supplier

- 9.1 The total liability of the Supplier due to an attributable failure in the performance of the agreement or on any legal basis whatsoever, explicitly including any failure in the performance of a warranty obligation agreed with the Client is limited to the reimbursement of direct damage up to the amount of the price stipulated in the agreement (excluding VAT and other levies imposed by the authorities). If the agreement is mainly a continuing performance contract with a period of more than one year, the price for such agreement shall be fixed at the total of the fees (excl. VAT and other levies imposed by the authorities) for one year. However, in no event shall the total liability of the Supplier for direct damage on any legal grounds whatsoever exceed the sums to be paid by the Supplier's insurer.
- 9.2 The Supplier is not liable for the manner in which the Client or third parties use the services of the Supplier, and therefore neither for any unlawful or infringing use of these services.
- 9.3 The Supplier's liability for indirect damages, consequential damages, lost profits, lost savings, loss of goodwill, loss due to business interruption, damage due to claims of customers of the Client, damage relating to the use of matters prescribed by the Client to the Supplier, materials or software of third parties and damage relating to the engagement by the Client of suppliers prescribed by the Client to the Supplier is excluded. Liability of the Supplier in connection with damage, destruction or loss of data or documents is also excluded.
- 9.4 Unless fulfilment by the Supplier is permanently impossible, the liability of the Supplier arising from an attributable failure in the performance of an agreement shall in all cases only arise if the Client immediately and properly puts the Supplier in default in writing, whereby the Supplier is given a reasonable period to remedy the failure and the Supplier still fails attributable in the fulfilment of its obligations after such reasonable period. The notice of default shall contain a description of the failure that is as detailed as possible to enable the Supplier to respond adequately.
- 9.5 The right to compensation may only arise if the Client reports the damage in writing to the Supplier as soon as possible after it has arisen. Any claim for damages against the Supplier shall be cancelled by the mere lapse of twelve (12) months after the claim has arisen, unless the Client has brought an action for compensation of the damage before the expiry of that period.
- 9.6 All of the exclusions and limitations of liability included in these general terms and conditions shall also apply for the benefit of all (legal) persons engaged by the Supplier for the performance of the agreement, but shall not apply if and insofar as the damage is the result of the wilful misconduct or recklessness of the management of the Supplier.

10. Force Majeure

- 10.1 Neither party is required to fulfil any obligation, including any legal and/or agreed warranty obligation if it is prevented from doing so by force majeure. The term force majeure on the part of the Supplier shall mean for instance: (i) force majeure of suppliers of the Supplier, (ii) failure to properly fulfil obligations by suppliers that have been prescribed to the Supplier by the Client, (iii) defective items, equipment, software, services or materials from third parties the use of which has been prescribed to the Supplier by the Client, or to which connections are made, (iv) government measures, (v) power failure, (vi) failure of the internet, data network or telecommunication facilities, (vii) war and (viii) general transport problems.
- 10.2 If a situation of force majeure lasts more than sixty days, each of the parties has the right to terminate the agreement in writing. In such an instance, that which has already been performed pursuant to the agreement shall be settled proportionately, without the parties owing each other anything else.

11. Privacy and processor's agreement

- 11.1 To the extent that data is processed using the service of the Supplier, this article serves as the processor's agreement between the parties. The Client is the "controller" and the Supplier is the "processor" in accordance with the applicable privacy legislation. Therefore, in the event of any processing of personal data, the Client assumes full responsibility and liability. The Supplier only carries out the processing on behalf of the Client and will not process personal data any longer than necessary for the assignment of the Client.
- 11.2 The Client warrants that it will lawfully process the personal data as ensues from the privacy regulations. The Supplier is not responsible for any proper purpose limitation. If the agreement does not state a purpose, then the provision of communication between end users of the Client and any third parties via the Supplier's services shall be regarded as the purpose. Both parties shall endeavour to take proper technical and organisational measures to protect personal data against loss or any form of unlawful processing.
- 11.3 The Supplier will only process the personal data on behalf of the Client and in accordance with the instructions of the Client as stipulated in the agreement. When the personal data has been rendered irreversibly untraceable to natural persons, the Client is free to process this anonymous data for statistical purposes and to improve its services. The personal data processed by the Supplier consists of IP numbers of end users who perform (video) calls, together with the identification number of the Client and the number of the relevant (video) call or session. No end-user names are processed or stored, but only the IP numbers of the end-user, together with a unique visitor number and some telemetry data regarding the operating system, browser type and browser version will be processed and stored for up to one (1) year. If the chat feature is used, these chats will also be stored, secured by encryption, for up to one (1) year to improve services.
- 11.4 The Supplier will process the personal data only within countries of the European Union. The Supplier may also only engage third parties without the prior consent of the Client under at least the same diligence requirements and if they are established within the European Union. Personal data may only be passed on to countries outside the European Union if the services provided by the Supplier are used to enable communication between one or more parties from outside the European Union.
- 11.5 The Client indemnifies the Supplier against any and all claims of third parties concerning the processing of personal data on instructions of the Client, which may be instituted against the Supplier because of a violation of privacy regulations that is not attributable to the Supplier.
- 11.6 All personal data exchanged between the Parties is subject to a duty of confidentiality towards third parties. The Parties will do their utmost to prevent any confidential information of the other party from coming to the knowledge or ending up in the hands of third parties. All this shall not apply if the disclosing party demonstrates that certain information is already publicly known or already in his possession other than by a violation of a duty of confidentiality.

- 11.7 The Client himself is responsible for the confidentiality and for periodically changing the access codes and for imposing this obligation on his employees and/or the users. The Supplier is never responsible for damage or costs as a consequence of the abuse of access codes, which is not directly attributable to acts or omissions of the Supplier.
- 11.8 When the Supplier establishes the existence of a data leak the Supplier shall report this to the Client as soon as possible, but not later than within 48 hours. The Client may then immediately inform the competent authority and/or the persons involved. The term data leak shall be taken to mean: any infringement that leads to the significant risk of serious adverse consequences, or serious adverse consequences for the protection of personal data.
- 11.9 To protect the personal data, the Supplier shall in any event take the following measures:
- The Supplier shall, as much as possible, minimise the use of data that can be traced to natural persons and for this reason, no end-user names are processed or stored when the (video) call service is provided, but only the IP numbers of the end-user together with a unique visitor number and some telemetry data regarding the operating system, browser type and browser version will be processed and stored for up to one (1) year.
 - the end users of the Supplier's services conduct peer-to-peer (video) calls with each other, which means that communication takes place directly between end-users and not via the servers of the Supplier. The only exception is when connection problems occur and the data traffic – fully encrypted with TLS – is exchanged between the end-users via the servers of WeSeeDo;
 - The Supplier always checks the OWASP top 10 security threads (www.owasp.org) when new services are developed;
 - access to personal data is only given to employees of the Supplier if this is necessary for the performance of their tasks and under a non-disclosure agreement;
 - the datacentre used is ISO 27001 certified;
 - the servers used by the Supplier are monitored 24 hours per day, seven days a week;
 - the data is protected by encrypted data transport of at least TLS 1.2 (and higher, at the request of the Controller).
- 11.10 The Supplier will only deviate from the duty of confidentiality if the supply of the information to third parties is logically necessary to perform the assignment or if it is legally required to provide the information to a third party.
- 11.11 In the event of conflicting provisions, this privacy clause shall prevail over all the other agreements between the Supplier and the Client where the processing of personal data is concerned.

12. Applicable law and disputes

- 12.1 The agreements between the parties shall be governed by Dutch law. The applicability of the Vienna Sales Convention 1980 (CISG) is excluded.
- 12.2 Any disputes arising from the agreement concluded by the parties and/or from any further agreements ensuing from such agreement shall be settled by the competent court of the district where the offices of the Supplier are located.
- 12.3 If the Supplier has also provided other versions of these terms and conditions besides the Dutch version, the interpretation of the Dutch version shall always prevail.

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