# Terms of Service – MyOnlineStore B.V.

## Artikel 1. Definitions

1.1 **Terms of Service**, these terms and conditions, including annexes, which form an integral part of the agreement between MyOnlineStore and Web merchant;

1.2 **MyOnlineStore**, or "we", "us" or "our": the company MyOnlineStore B.V., with its registered office at Molenstraat 56, 5341GE in Oss, The Netherlands, registered with the Chamber of Commerce in the Netherlands under number 17149100, trading under the name Mijnwebwinkel, the Service provider.

1.3 **Service:** the online store/online software that MyOnlineStore makes available for use by and hosts for the user (also referred to as "Web merchant") in the free version "Mijnwebwinkel GO", the paid versions "Mijnwebwinkel PRO" and "Mijnwebwinkel PREMIUM" and/or all other services provided by MyOnlineStore.

1.4 **Web merchant,** or "you", "your": the (legal) person that purchases the Service from us in the course of a profession or business.

1.5 **Agreement:** the Agreement between MyOnlineStore and the Web merchant on the basis of which we provide our services, including these Terms of Service and the annex/annexes.

## Artikel 2. Applicability

2.1 These Terms of Service apply to all offers we make and agreements we conclude. If you apply your own general terms and conditions, these shall not apply.

## Artikel 3. Conclusion of the Agreement

3.1 The Agreement between you and MyOnlineStore is concluded after you have entered all data during the registration process, agreed to the Terms of Service and created the online store.

3.2 We have the right to cancel the request to create an online store or to prevent the creation of an online store without giving reasons.

## Artikel 4. Rights and obligations MyOnlineStore

4.1 We strive to make the Service fully available to you at all times. Unfortunately, we cannot guarantee that the Service will be fully available at all times. If the Service is not (fully) available, we will make every effort to solve the problem as quickly as possible and Article 10 of these Terms of Service shall apply.

4.2 In some cases circumstances may exist that are considered force majeure, as a result of which it is not possible for us to make the Service available. Force majeure includes, for example, a terrorist attack, war, strike by staff, fire or natural disaster, or digital attacks (for example DDoS), burglaries or seizure of our servers. Other causes of force majeure are also conceivable. In the event of force majeure, we shall be entitled to suspend or terminate the performance of the Agreement. In that case, we are not required to compensate you for any damage.

4.3 We may make changes to the Service at our own discretion and without consulting you. In addition, we may engage third parties in the performance of our work.

4.4 We may place a hyperlink and/or image in the Service and emails to your customers, showing that you are using our services. In addition, there may be technical reasons you can sometimes find our name in the internet address of your online store.

4.5    We may implement technical measures to protect ourselves, our Service and the suppliers involved in the performance of the Service. You may not remove or evade such security measures.

4.6    We will inform you by email about the developments in respect of the Service and about additional services of our partners. If you do not want this, you can unsubscribe in the management environment of the Service.

4.7    If you fail to comply with the agreements or we suspect that you do, we shall have the right to suspend our obligations towards you. This means that we may proceed to temporary or permanent closure of your online store.

4.8    If you submit support questions to us, in certain cases it may be necessary for us to access your management environment in order to adjust settings. By entering into the service provision agreement and submitting such questions, you consent to the above.

## Artikel 5. Rights and obligations Web merchant

5.1    The Agreement provides you with a non-exclusive and non-transferable right to use the Service to set up and manage one (1) online store, during the term of the Agreement.

5.2    We want to know who we do business with and how we can contact you. To this end, we request some (personal) data. You are obliged to enter the data requested by us truthfully in the management environment under *"Company details"*, and to keep these current.

5.3    We process your personal data for the purpose of performing the Agreement. We make every effort to protect these personal data to the extent possible and to prevent access by third parties. Our Privacy Policy describes how we handle the data we collect. The most recent version of the Privacy Policy can be viewed on our website.

5.4    In addition, we also process data of your customers on your behalf. Your customers are required to enter their personal data in your Online store, for example in the order process. According to the law, we are the "processor" and you are the "controller" with respect to the processing of these data. To further regulate this division of roles and the associated obligations, relevant provisions are included in Annex 1 of these Terms of Service.

5.5    The police, judicial authorities or any other authority may request your personal data. We shall only provide this information if we are required to comply with a claim and are permitted to do so in accordance with applicable laws and regulations. If we receive a claim, we will notify you unless we are requested not to do so. If we are obliged to provide your data, we shall not be responsible for the consequences this may have for you.

5.6    You are responsible for the operation of the online store. We do want you to comply with laws and regulations and we have the right to close your online store (temporarily) if it becomes apparent that this is not the case. We may do this, among other things, if (we suspect):
  –    You offer stolen products;
  –    You offer products/services you are not allowed to offer by law (e.g. weapons, drugs and other prohibited substances or gambling-related services);
  –    You offer products/services, as a result of which it is reasonable to expect that you infringe on the intellectual property rights of third parties (for example, bags that are very similar to bags of a certain couture brand);
  –    You assist in any way, directly or indirectly, others in violating the intellectual rights of third parties (for example by selling media players that make it easy to play illegal content);

- You offer products/services, which may cause business damage to MyOnlineStore;
- You violate the privacy of third parties, for example by distributing personal data of third parties without consent or necessity or by repeatedly harassing third parties with unsolicited (commercial) communications;
- You try to access other computers or computer systems via the online store, or spread viruses or other programs here or cause them to spread.

5.7    If a third party informs us of any unlawful or infringing behavior by you, we will inform you as soon as possible. In that case, we ask you to give us a detailed response as soon as possible (but no later than within one week). After this, we will decide how to act. If, in our opinion, this is an urgent case, we can and may take immediate action.

5.8    We have the right to (partially) suspend the performance of the Service, remove material or block (the use of) the Service if (we reasonably suspect) these Terms of Service, third party rights or legislation and regulations are being violated or if there is excessive burden on our or our suppliers' systems. We will ensure that you are informed of this as soon as possible.

5.9    In certain cases, we may provide your name, address and other identifying information to a third party complaining that you are infringing on its rights. We will only do this if the accuracy of the complaint is reasonably plausible and a third party has a reasonable interest in providing the data and if the legal requirements and related case law have been complied with.

5.10   You are aware that we consider it important that the data of visitors and customers of your online store are properly protected. We implement technical measures to this end. In addition, you are responsible for the best possible protection of the (personal) data you store and use in your online store. You can do this by keeping your password secret and changing it regularly. It is mandatory to describe how you handle the (personal) data in a privacy statement the substance of which meets the requirements arising from applicable legislation and regulations. If you fail to take the necessary security measures, we will not be liable.

5.11   We may recover damages resulting from violations of these Terms of Service from you. If we are approached by a third party in connection with this, Article 11.3 shall apply.

## Artikel 6. Prices

6.1    We are a European company and the prices of our services are therefore stated in euros. All prices are exclusive of taxes (such as VAT) and other government levies.

6.2    We have the right to review our prices from time to time, for example as a correction for inflation as set out in the Service Price Index (DPI) applicable to our services. We may also review our prices in line with changes in the rates of our suppliers, which will then be passed on proportionally. This is not a reason to terminate the agreement prematurely.

6.3    It is possible that the prices on our website contain a typing error. In that case, we shall have the right to still charge the correct price.

## Artikel 7. Payments

7.1    We will send you an invoice every month. You must pay this invoice within 14 days of the invoice date, unless you have authorized us to collect the invoice amount by direct debit. If the direct debit fails for whatever reason, we will inform you, after which you still have 14 days to pay us the outstanding amount. We are not required to send payment reminders to take follow-up action, but we will try to do so, of course.

7.2 If you fail to pay an invoice on time we shall be entitled to cease giving you access to the Service, and also to make or cause to make your domain name inaccessible or to block it, to place it in quarantine or to put or cause to put it in our name. This means that you and your customers no longer have access to the online store. We are not obliged to compensate any damage you may suffer or the costs you may incur as a result. However, you are still obliged to pay the invoice/invoices.

7.3 If you fail to pay an invoice on time, we may assign the claim for collection. The costs we incur as a result will be charged to you. In calculating the extrajudicial collection costs, we act in compliance with the Extrajudicial Collection Costs Standardization Act.

## Artikel 8. Intellectual Property Rights

8.1 We are proud of the Service we have developed. That is also why we protect the software, texts, (visual) material and other matters that make our Service what it is. As stated in Article 5.1, you only acquire the right to use the Service. All (intellectual) property rights that apply to or arise from the Service are vested in us or our licensors. You may not infringe on this by, for example, copying and/or modifying our Service or any element thereof.

8.2 We do not take cognizance of any data that you place on our systems or on those of our suppliers, unless this is required for the proper performance of the Service. For the use of these data (to the extent necessary), you grant us and our suppliers a license for the duration of the Agreement, to the extent that this is necessary for the performance of the Service.

8.3 All intellectual property rights that apply to your data or other materials supplied by you shall remain vested in you.

## Artikel 9. Duration and termination

9.1 The Agreement is entered into for a period of one (1) year. If you wish to terminate the Agreement after one year, you may cancel it by email or post up to one (1) month before the end of the Agreement. If the Agreement is not terminated, it shall be renewed for additional periods of one (1) year

9.2 In addition to the rights we have under the law, we have the right to terminate the Agreement with immediate effect, in the following cases:
   – You file for bankruptcy or you are declared bankrupt;
   – You apply for a (provisional) suspension of payments or a (provisional) suspension of payments has been granted to you;
   – You lose control of all or part of your assets;
   – You have been placed under guardianship or receivership;
   – You fail to comply with any of the provisions of these Terms of Service, and in particular Article 5.6.

9.3 The fact that we may terminate the Agreement with immediate effect does not mean that you are not obliged to pay the outstanding invoices.

## Artikel 10.    Liability

10.1   We shall only be liable towards you for direct damages resulting from an attributable failure in the performance of the Agreement. Direct damage is understood to mean exclusively:

    i)    reasonable costs you had to incur to have our performance conform with the Agreement. This damage will not be compensated if you have terminated the Agreement;

    ii)    reasonable costs, incurred to determine the cause and the extent of the damage, insofar as ascertaining is related to direct damage within the meaning of these Terms of Service;

    iii)    reasonable costs incurred to prevent or limit the damage where you demonstrate that these costs have resulted in limitation of direct damage within the meaning of these Terms of Service.

10.2   Under no circumstances shall we be liable for any indirect or consequential loss or damage suffered by you as a result of your inability to make (uninterrupted) use of the Service. It is irrelevant as to whether this is due to a malfunction (with third parties) or because we do not give you access to the Service, for example because we suspect that you are not complying with the Agreement. Furthermore, we are not liable in the event of force majeure, as set out in Article 4.2. In any case, we shall not be liable for any lost sales. It is recommended to effect additional insurance in that respect.

10.3   We collaborate with partners and external parties who have a link or integration with our Service. These parties do not work for or with us. We shall not be liable for any damage you suffer as a result of the use of services offered by these partners or third parties.

10.4   We make every effort to safeguard your data, but we cannot guarantee this security. We shall not be liable for any damages resulting from the loss of data collected or created through the use of our Service.

10.5   Our total liability due to an attributable failure to perform the Agreement, a wrongful act or otherwise, per event, is limited to compensation for direct damage with a maximum equal to the amount you paid us in the twelve (12) months prior to the event causing the damage (excluding VAT), for the part of the Agreement that gave rise to the damage. For this purpose, a series of related events is regarded as a single event.

10.6   Our liability due to an attributable failure in the performance of the Agreement shall arise only if you give us immediate and proper notice of default in writing, specifying a reasonable period to rectify the failure, and we continue to imputably fail in the performance of our obligations even after such period. The notice of default must contain a detailed description of the failure, allowing us to respond adequately.

10.7   The limitation of liability within the meaning of the previous paragraphs of this article shall lapse if and insofar as the damage is the result of willful misconduct or gross negligence on the part of the management of MyOnlineStore.

## Artikel 11. Third parties

11.1 We offer you the opportunity to start an online store, but are not otherwise involved in any way in the company you run. Therefore, we are not a party to the agreements you conclude with customers who make a purchase in your online store. You are responsible/liable for the range offered, products and/or services, quality and the like. In addition, you are responsible for compliance with applicable laws and regulations. These include, for example, regulations that relate to sales to consumers and electronic commerce in general. This also means that a third party (e.g. your customer) cannot hold us liable with respect to the products and/or services offered by you, the quality and soundness of these, the advertising and the (manner of) processing the orders and/or payments.

11.2 We shall never be liable and never be obliged to compensate any damage suffered by a third party as a result of (the purchase of a product in) the online store.

11.3 If we are held liable by third parties in respect of a matter for which you are responsible and/or liable, you shall be obliged to indemnify us against any claim by this third party. Indemnify means, among other things, that you assist us (in proceedings) against this third party and compensate us for all damage we suffer as a result. We will inform you as soon as possible if such a situation arises. You shall immediately notify this third party in writing that it is not us but you who are responsible and/or liable. If you fail to cooperate, or cooperate insufficiently, we will defend ourselves. The costs we incur as a result (e.g. lawyer's fees) will be charged to you in full.

## Artikel 12. Domain names

12.1 If you acquire a domain name as part of the Service, you agree that we will register it in your name and at your risk by a registering party of your choice. You authorize us to accept on your behalf any additional terms and conditions and/or to conclude a (separate) agreement for registering the domain name.

12.2 The data provided by you will be used for the registration. You shall be responsible for providing the correct data required for this registration. Direct and indirect costs resulting from incomplete or incorrect data may be recovered from and/or passed on to you.

12.3 The party we instruct on your behalf to carry out the registration is also referred to as the registrar. Subsequently, this registrar will submit the request for registration to a party responsible for managing the register of domains, the so-called registry. For example, for .nl domains the responsible registry is the Stichting Internet Domeinregistratie Nederland (SIDN) (foundation for Internet domain registration in the Netherlands).

12.4 The application, granting and possible use of a domain name are dependent on and subject to the applicable rules and procedures of both the relevant registrar and registry. We may exercise these conditions towards you as if we were the party/parties, but we are not obliged to do so.

12.5 Upon termination of the Agreement, our obligation to maintain the registration of your domain name shall lapse. If you wish to continue using your domain name, you will be responsible for this and must take all the necessary steps. We can only assist you by providing you with a transfer code. In that case, you also give us permission to request this transfer code from the relevant registrar. We will only provide you with a transfer code once you have fulfilled all your payment and other obligations under the Agreement.

12.6 If we are held liable by third parties in relation to the use of your domain name, you shall be obliged to indemnify us against any claim by this third party. The same obligation to indemnify shall apply as in Article 11.3.

## Artikel 13.        Amendments to the Terms of Service

13.1 We have the right to amend these Terms of Service from time to time, including for current Agreements. The latest version of the Terms of Service can be viewed at myonlinestore.com/conditions   In addition, we will always communicate substantial amendments or supplemented terms to you in good time, for example by informing you thereof by email. For current Agreements we aim to do this at least 14 days before the entry into force of the new terms and conditions.

13.2 If you do not wish to accept the amendments or additions, you may submit a reasoned objection within 14 days of the announcement, following which we will reconsider the amendment or addition. If we decide to proceed with the amendment or addition, you may terminate the Agreement in writing by the date on which the amendment enters into force.

13.3 Minor changes, changes by law and changes in your favor may always be implemented without your acceptance, without your being given the option of terminating the Agreement.

## Artikel 14.        Miscellaneous

14.1 The Agreement and these Terms of Service are governed by Dutch Law. If a dispute arises between us, arising from or related to this Agreement, the Dutch court in the district of Oost-Brabant shall have the right to exercise jurisdiction in the dispute.

14.2 We do business with you. You may only transfer the rights and obligations under the Agreement to a third party with our written consent. To guarantee the continuity of the Service to you, among other things, we may transfer our rights and obligations under the Agreement, in whole or in part, to a third party without your consent. In the event of any transfer, we will notify you by email within a reasonable period of time.

14.3 The version of any communication, measurements made and monitoring carried out by us that we receive or store shall be considered authentic, unless you provide proof to the contrary.

14.4 A provision of the Agreement and/or these Terms of Service may prove to be contrary to the law and therefore invalid. This does not mean that the entire Agreement and/or Terms of Service shall be no longer valid. If this situation arises, we will endeavor together with you to find a provision that is as close as possible to the old provision, but not in conflict with the law.

# Annex 1. Provisions with respect to processing of personal data commissioned by Web merchant

### Article 1. Considerations

1.1    In addition to the provisions above, the following is considered with regard to the processing of personal data when Web merchant uses the Service:

- **MyOnlineStore B.V. is hereinafter referred to as 'Processor'**
- Web merchant possesses personal data of various customers (hereinafter: data subjects);
- Web merchant uses the services of Processor to manage their own webshop.
- Processor offers this service in the form of a website that may use Web merchant to sell its products;
- By using the services of the Processor, data subjects leave behind personal data, including name and address details, payment data, log data and order data, which are processed automatically;
- Web merchant has personal data processed by Processor by using the Processor's services; Web merchant indicates the purpose and means. This shall be done within the scope of the agreement of 2018-01-31 between the Parties (hereinafter referred to as: Agreement);
- Processor is prepared to fulfil the obligations in respect of security and other aspects of the Personal Data Protection Act (PDPA), to the extent it is able to do so.
- The Parties wish to set out their rights and obligations in writing by means of this data processor agreement (hereinafter referred to as the Processor Agreement) in accordance with the requirements of Article 14, paragraph 5 of the PDPA;
- In the performance of the Agreement, the Processor may be considered Processor within the meaning of Article 1 (e) of the PDPA;
- Web merchant is designated as the Controller within the meaning of Article 1 (d) of the PDPA;
- where in this Data Processor Agreement reference is made to personal data, hereinafter shall refer to personal data within the meaning of Article 1 (a) of the PDPA;
- where in this Data Processor Agreement reference is made to terms from the PDPA or General Data Protection Regulation (GDPR), this shall refer to the corresponding terms from the PDPA or GDPR;
- where in this Data Processor Agreement reference is made to the PDPA, as from 25 May 2018 this shall refer to (the corresponding provisions of) the GDPR.

### Article 2. Purposes of processing

2.1.    Processor undertakes to process personal data on behalf of Web merchant under the terms and conditions of this Data Processor Agreement. Processing shall only be carried out within the scope of this Data Processor Agreement and the purposes defined in the Agreement. Web merchant will inform Processor in writing of the processing purposes insofar as they have not already been stated in this Data Processor Agreement.

2.2.    Processor has no control over the purpose and means of processing of personal data. Processor does not take independent decisions on the receipt and use of personal data, the provision to third parties and the duration of the storage of personal data.

2.3.    The personal data to be processed on the instructions of Web merchant shall remain the property of Web merchant and/or the relevant data subjects.

2.4.    To the extent as required by law, Web merchant will guarantee that, as from 25 May 2018 once the

GDPR comes into force, it will keep a register of the processing operations regulated under this Data Processor Agreement. Web merchant shall indemnify Processor against all assertions and claims relating to the incorrect compliance with this registration obligation.

## Article 3. Allocation of responsibilities

3.1.   Parties shall ensure compliance with applicable privacy laws and regulations.

3.2.   The permitted processing operations will be carried out by Processor within an automated or semi-automated environment.

3.3.   Processor shall solely be responsible for the processing of personal data under this Data Processor Agreement, in accordance with the instructions of Web merchant and under the explicit responsibility or final responsibility of Web merchant. Processor shall expressly not be responsible for any other processing operations of personal data, including in any event but not limited to the collection of personal data by Web merchant, processing operations for purposes that have not been reported to Processor by Web merchant, processing operations by third parties and/or for other purposes. Responsibility for these processing operations rests solely with Web merchant.

3.4.   Web merchant guarantees that the content, use and order for the processing operations of personal data within the meaning of this Data Processor Agreement, are not unlawful and do not infringe on any rights of a third party.

## Article 4. Obligations of Processor

4.1.   With regard to the processing operations referred to in article 1, Processor will ensure compliance with the conditions imposed on the processing of personal data by Processor pursuant to the PDPA and GDPR.

4.2.   Processor shall inform Web merchant, at the latter's request and within a reasonable period of time, of the measures it has implemented in respect of its obligations under this Data Processor Agreement.

4.3.   Processor shall notify Web merchant if in its opinion an instruction from Web merchant is contrary to relevant privacy laws and regulations.

4.4.   Processor shall lend Web merchant all the necessary, and reasonably possible assistance if a data protection impact assessment, or prior consultation of the supervisor, is necessary within the scope of processing operations.

4.5.   The obligations of Processor under this Data Processor Agreement shall also apply to those who process personal data under the authority of Processor, including but not limited to employees, in the broadest sense of the word.

## Article 5. Transfer of personal data

5.1.   Processor processes personal data in countries within the European Union (EU). If Processor processes personal data in countries outside the EU, this may only be done provided said country ensures an adequate level of protection and it complies with its other obligations under this Data Processor Agreement and the PDPA.

5.2.   Processor shall notify Web merchant as soon as possible which country or countries it concerns, if requested to do so by Web merchant.

## Article 6. Engagement of third parties or sub-processors

6.1.   Web merchant hereby grants Processor permission to engage third parties (sub-processors) during processing. The permission granted by Web merchant also relates to the appointment of new sub-processors.

6.2.   An up-to-date list of sub-processors can be found on www.myonlinestore.com/sub-processors. Web merchant, provides periodic consultation of the list of subprocessors. If Web merchant has reasonable grounds to object to the use of new sub-processors, the processor must be

immediately informed in writing and supported by arguments.

6.3. The processor submits the same data protection obligation as mentioned in this processor agreement to all Sub Processors. The processor guarantees correct compliance with the obligations by these subprocessors and in the case of negligence of these subprocesses is liable towards Web merchant for direct damage as if he himself / herself committed the error(s).

## Article 7. Security

7.1. Processor shall make every effort to implement appropriate technical and organisational measures to protect personal data against loss or any form of unlawful processing.

7.2. Processor shall make every effort to ensure that the security will be of such a level that is not unreasonable, given the state of the art, the sensitivity of the personal data and the costs associated with implementing the security.

7.3. Web merchant shall only provide Processor with personal data for the purpose of processing, if it has been assured that the required security measures have been implemented.

## Article 8. Data breach notification duty

8.1. In the event of a security breach and/or a data breach (which includes: a breach of personal data security leading to a significant risk of serious consequences, or has serious negative consequences for the protection of personal data, within the meaning of Article 34a of the PDPA), Processor shall make every effort to immediately notify Web merchant, or no later than within 36 hours after the occurrence of the breach, following which Web merchant shall assess whether or not to inform the supervisory authorities and/or the data subjects. Processor shall use its best efforts to ensure that the information provided is complete, correct and accurate. The duty to report only applies if the breach has actually occurred.

8.2. Web merchant will ensure compliance with any (legal) duties to report. If required by laws and regulations, Processor will cooperate in informing the relevant authorities and/or any data subjects.

8.3. The duty to report shall at least include reporting the fact that a breach has occurred, as well as:
   – the (alleged) cause of the data breach;
   – the (as yet known and/or expected) result;
   – the (proposed) solution;
   – contact details for monitoring the notification;
   – who has been informed (such as the data subject, Web merchant, supervisor).

## Article 9. Handling requests of the data subjects

9.1. In the event that a data subject addresses a request regarding his personal data to Processor, Processor shall forward the request to Web merchant. Processor may inform the data subject accordingly. Processor shall render, reasonably possible, necessary cooperation in the handling of the request.

## Article 10. Secrecy and confidentiality

10.1. All personal data Processor receives from Web merchant and/or collects under this Data Processor Agreement, is subject to a duty of confidentiality towards third parties. Processor will not use this information for any purpose other than for which it has been acquired, unless it has been converted into such a form that it cannot be traced to the data subjects.

10.2.   This duty of confidentiality shall not apply:
   – insofar as Web merchant has given explicit permission to provide the information to third parties; or
   – if the provision of information to third parties is logically necessary for the performance of the Agreement or this Data Processor Agreement; and
   – if there is a statutory obligation to disclose the information to a third party.

## Article 11. Audit

11.1.   Web merchant shall only be entitled to conduct an audit if it has a concrete suspicion that there is an attributable shortcoming on the part of Processor in performance of this Data Processor Agreement.

11.2.   The costs of the audit shall be borne by Web merchant.

## Article 12. Final provision

12.1.   Once the Data Processor Agreement has been terminated, for any reason and in any manner whatsoever, Processor will grant Web merchant access to the personal data for a period of one month. After expiry of the period stated above, the personal data of Web merchant will be kept in quarantine for a further two months under the supervision of Processor without Web merchant having access thereto. After expiry of three months, Processor will delete and/or destroy the personal data of Web merchant and any copies thereof.