

Dutchview Information Technology B.V. General Terms and Conditions

Version 1.3

Article 1 Definitions

1. Dutchview Information Technology B.V. (hereinafter referred to as Dutchview) is a private limited company that has set itself the objective of developing and selling software.
2. In these General Terms and Conditions, 'Client' means the natural person or legal entity, or the partnership of natural and/or legal entities, or the intermediary or representative acting on behalf of this legal entity who uses the services of Dutchview as referred to in Article 1(4) of these General Terms and Conditions.
3. In these General Terms and Conditions, 'Agreement' means the legal relationship between Dutchview and Client in the broadest sense.
4. In these General Terms and Conditions, 'Services' means all products and services supplied to Client by Dutchview and/or third parties engaged by it, including offering, selling and supplying software products, offering training courses and supplying accessories, as well as all other activities of whatever nature that Dutchview carries out on behalf of Client performed within the framework of an assignment, which includes activities that are not carried out at Client's express request.
5. In these General Terms and Conditions, 'Website' means the <https://www.dutchview.com> website.
6. These General Terms and Conditions may be drawn up in Dutch or in English.

Article 2 Scope of application of the General Terms and Conditions

1. The General Terms and Conditions apply to all Agreements concluded between Client and Dutchview in which Dutchview offers Services and/or delivers products.
2. Deviations from the General Terms and Conditions are only valid if expressly agreed with Dutchview in writing.
3. The applicability of any of Client's purchasing or other terms and conditions are expressly rejected, unless expressly agreed otherwise in writing.
4. These General Terms and Conditions also apply to supplementary, amended and/or repeating assignments for Client.
5. Dutchview is entitled to amend these General Terms and Conditions unilaterally as long as these changes are not unreasonably onerous for Client. Dutchview will inform Client of these amendments no later than two (2) months prior to entry into force. If Client raises no objection to the announced amendments within the set period, Client is assumed to have agreed to such amendments. Dutchview is never obliged to pay any compensation and/or refund licence and other costs already paid by Client if an objection leads to cancellation of the Agreement.

Article 3 Concluding the Agreement

1. Dutchview enters into agreements in the following ways:
 - a. Client can contact Dutchview via the Website, by e-mail or telephone for one of the Services offered. Dutchview then draws up a quotation, which Client must accept in writing within the set term.
The Agreement is concluded after this acceptance;
 - b. Dutchview accepts an order and/or an order form intended for that purpose from Client in writing. The Agreement is concluded after this acceptance;
 - c. Dutchview enters into a contract or framework contract with Client.
2. If Client includes notes about or comments on the Dutchview quotation then they are not a part of the Agreement, unless Dutchview confirms this in writing.

3. If Dutchview sends a confirmation to Client, this confirmation will be decisive for the content and interpretation of the Agreement, subject to obvious errors in writing.
Dutchview cannot be bound by its offers if Client should have reasonably understood that the offers or a part thereof contain an obvious mistake or error in writing.

Article 4 Implementation of the Agreement

1. Dutchview will endeavour to perform the Services to the best of its knowledge and ability and in accordance with high standards, as well as – as far as possible – in accordance with agreements laid down in writing.
2. If and insofar as a proper implementation of the Agreement requires it, Dutchview is entitled to appoint third parties to carry out certain work under the conditions agreed in the Agreement. The applicability of Book 7, Sections 404, 407(2) and 409 of the Dutch Civil Code are hereby expressly excluded.
3. Client must ensure that all information that Dutchview indicates is necessary, or that Client should reasonably understand is necessary for the implementation of the Agreement, is provided to Dutchview in a timely manner. If the information required for the implementation of the Agreement is not given to Dutchview in good time, Dutchview is entitled to suspend the implementation of the Agreement and/or charge Client for the additional costs resulting from the delay according to the usual rates.
4. If a term has been agreed or specified for the performance of Services, this is never a final deadline. If a delivery period is exceeded, Client must give Dutchview written notice of default for this. In the process, Dutchview must be given a reasonable period in which to implement the Agreement.

Article 5 Amendments to the Agreement

1. If before or during the implementation of the Agreement it proves necessary to change or to add to it for a proper implementation, Dutchview and Client will amend the Agreement accordingly in time and in mutual consultation.
2. If the amended Agreement is not implemented or not implemented immediately, this does not constitute a breach on the part of Dutchview and is not a ground for Client to terminate or cancel the Agreement.
3. Amendments to the originally concluded Agreement between Dutchview and Client are only valid from the time that these changes have been accepted by both parties by means of an additional or amended Agreement. These amendments must be laid down in writing.

Article 6 User rights and conditions

1. For the duration of the Agreement and under the terms of the Agreement, Dutchview grants Client a limited, revocable, non-exclusive, non-transferable (to third parties) right (licence) to use Dutchview software and other products.
2. Client is only authorised to transfer the user right and/or outsource it if it concerns Client's subsidiary.
3. Under this Agreement, Client undertakes to use the user right and/or the software and other products exclusively for the purpose for which Dutchview has developed this user right and/or the software and other products and this is stipulated in documentation.
4. Client is responsible for the correct use and the correct application of the Services provided by Dutchview, as well as for adequate system management, and monitoring and security procedures (including backing up data files regularly). Client must install any relevant updates in good time and properly.
5. Client is not permitted to fully or partially integrate Dutchview software into or merge it with software or electronic data collections of third parties or the Client, unless Dutchview has granted its express written permission for this.

6. The Dutchview software may not be subjected to any kind of decompilation, reverse engineering or any other form of translation or editing of the software coding.
7. Dutchview is entitled to investigate whether the software is being used properly and appropriately. Client must cooperate and provide access to all software, documentation and other materials, as well as to any location where the products provided by Dutchview are located.

Article 7 Suspension, cancellation and early termination of the Agreement

1. Dutchview is entitled to suspend the fulfilment of its obligations or to cancel the Agreement if Client does not comply with its obligations under the Agreement at all or on time, or if Dutchview has good grounds to fear that Client will fail to fulfil these obligations.
2. Furthermore, Dutchview is entitled to cancel the Agreement if circumstances arise which are of such a nature that compliance with the Agreement is impossible or adhering to the unaltered Agreement cannot reasonably be expected.
3. If Client does not fulfil its obligations arising from the Agreement and this non-fulfilment justifies cancellation, then Dutchview is entitled to cancel the Agreement immediately and with immediate effect without any obligation on its part to pay any damages or compensation whatsoever.

Article 8 Expenses, fees and payment

1. All amounts mentioned in the offer are excluding sales tax (VAT), unless otherwise stated.
2. Dutchview is entitled to correct any obvious errors in writing in the quotation. The customer is obliged to immediately notify Dutchview of inaccuracies in the stated or provided payment details.
3. Client must make an annual advance payment to Dutchview, unless otherwise agreed. Client must pay the invoice within thirty (30) days of the invoice date.
4. If annual licence fees and other costs have been agreed in the Agreement, Dutchview will be entitled to increase these costs annually by a percentage based on the consumer price index of the National Statistics Office in the Netherlands, provided Dutchview notifies Client about this price increase in writing at least thirty (30) days in advance.
5. If Client fails to pay an invoice on time, Client is in default by operation of law. Notice of default is therefore not required. Client will then be liable to pay interest of 1.5% per month or part thereof. The interest on the amount due will be calculated from the time Client was in default until the time the amount due is paid in full. Any costs to Dutchview arising from Client's failure to fulfil its obligations are for Client's account. The extrajudicial collection and other costs incurred by Dutchview will be set at at least 15% of the principal amount of the claim.

Article 9 Liability

1. In accordance with Article 4(3) of these General Terms and Conditions, Client is responsible for providing correct and representative data and information that is necessary for the implementation of the Agreement. Dutchview is not liable for damages, including on the basis of a wrong order, if Client has provided incorrect, unrepresentative or irrelevant information.
2. Dutchview is not liable for the consequences of exceeding the deadlines in accordance with Article 4(4) of these General Terms and Conditions. Exceeding the term does not entitle Client to cancel the Services, or to refuse the receipt or payment of the Services.
3. Dutchview is not liable for errors or omissions on the part of third parties engaged by it. By using Dutchview Services, Client grants Dutchview the right to accept this limitation of liability on Client's behalf too, if a third party engaged by Dutchview wishes to limit its liability.
4. Dutchview is not liable for indirect damages, including but not confined to consequential damages such as trading loss, business interruption loss, loss of savings, diminished goodwill and loss of profit.

5. Dutchview is not liable for failure to fulfil its obligations arising from the Agreement at all or on time if this is caused by force majeure as referred to in Article 10.
6. If Dutchview is held liable, it will only be liable for direct damages that have actually been incurred, paid or suffered by Client due to Dutchview's demonstrable failure to fulfil its obligations; the damages must be the direct and exclusive consequence of Dutchview's actions.
7. Dutchview's liability is limited to the amount covered and paid by the insurance company. If the insurance company does not pay out, or if Dutchview is not insured, the liability is limited to a maximum amount equal to the compensation included in the Agreement between Dutchview and Client for one (1) year, or the average monthly compensation for the business partner or development partner respectively.
8. The limitation of liability as described in this article does not apply if it is due to deliberate intent or wilful recklessness on the part of Dutchview .
9. This article does not exclude liability insofar as liability cannot be limited or excluded by law.

Article 10 Force majeure

1. 'Force majeure' means all external causes, beyond Dutchview's control or through no fault of Dutchview, rendering the timely, complete or correct fulfilment of Agreement no longer possible. This includes but is not confined to non-compliance on the part of a third party, illness of Dutchview's staff or a third party's staff.
2. In the event of force majeure, the implementation of the Agreement will be suspended for as long as the force majeure lasts.
3. If the force majeure lasts three months or more, both parties are entitled to cancel the Agreement without recourse to the courts. In such a case, Dutchview will reimburse any amounts paid, while at the same time deducting any costs that Dutchview has incurred in relation to the Agreement.

Article 11 Guarantee

1. Subject to what is explicitly stated in the Agreement and/or in these General Terms and Conditions, Dutchview does not offer any other guarantees, commitments or conditions with regard to the Services.
2. Dutchview guarantees that the Services meet the specifications as stated in the accompanying documentation. If required, Client may request a service level agreement.
3. If this guarantee is breached, the only remedy is the replacement of a defective product with a product that meets the relevant specifications. Client must inform Dutchview of such a guarantee claim in writing within two (2) weeks of discovering the defective product. Dutchview will indicate within five (5) working days whether the claim will be granted and will then ensure replacement within eight (8) working days after the claim has been granted.
4. The provisions in these General Terms and Conditions with regard to the guarantee are without prejudice to Client's guarantee claims under the law.

Article 12 Confidentiality of information

1. Both parties guarantee that all information received from the other party that they know or should know is of a confidential nature will kept secret. The party that receives confidential information will only use it for the purpose for which it was provided. Information will in any event be regarded as confidential if it has been specified as such by one of the parties. Both parties cannot be held to this if the provision of data to a third party is necessary pursuant to a court decision, a statutory provision or for the proper implementation of the Agreement.
2. Confidentiality applies both during the term of the Agreement and after termination of the Agreement, subject to the prior written permission of the other party.
3. The parties undertake to comply with all obligations under privacy legislation to which they are subject.

Article 13 Intellectual property

1. All copyrights, patent rights, trade name rights, trademark rights, source codes and other intellectual and industrial property rights, as well as all similar rights for the protection of information regarding Dutchview's software and other products are and remain at all times the exclusive property of Dutchview. None of the provisions contained in an offer, order and/or agreement, including these General Terms and Conditions, can be interpreted as leading to full or partial transfer of those rights to Client; such a transfer is not intended, nor can it be construed as such.
2. Client is not permitted to remove or change any copyright notices, brands, trade names or other intellectual property rights from the Services, including particulars related to the confidential nature and confidentiality of the Services.
3. Client is not permitted to register any of Dutchview's trademarks, trade names, designs or domain names or similar names that may be associated with these in any jurisdiction, anywhere in the world.
4. Any use, reproduction or disclosure of the Services that fall outside the user rights stipulated in Article 13(1) of these General Terms and Conditions is considered to be an infringement of copyright. If any actions are taken that are not compatible with the user rights granted, irrespective of whether the infringement can be attributed to Client and without prior notice of default or legal proceedings, Client will forfeit an immediately due and payable penalty of € 10,000 (ten thousand euros) for each infringement, without prejudice to Dutchview's right to have its damages arising from the infringement compensated or to take other legal measures in order to stop the infringement.
5. Client guarantees that making information available to Dutchview does not constitute an infringement of third-party rights. Client will indemnify Dutchview against any action that is based on the assertion that making this information available, or using, processing, installing or incorporating it, infringes any third-party rights.

Article 14 Dutchview's identification details

1. Dutchview is filed with the Chamber of Commerce in the Netherlands under number 53977599 and its VAT number is NL851099518B01. Dutchview has its registered office at Leeuwenbrug 97 (7411TH), Deventer.
2. Dutchview can be reached by e-mail at info@dutchview.com or by telephone on +31 (0) 570-572214.

Article 15 Applicable law and competent court

1. The legal relationship between Dutchview and Client is governed by Dutch law.
2. Any disputes that may arise between Dutchview and Client will be resolved by the competent court of Overijssel, the Netherlands, to whose exclusive jurisdiction the parties hereby irrevocably submit

Article 16 Final provisions

1. In the event of complaints, Client may send an e-mail to info@dutchview.com or report it by telephone on +31 (0)570-572214.
2. These General Terms and Conditions are available on the website, are enclosed with quotations and are referred to on order forms.