

Terms and Conditions (V4.5)

Terms and conditions for LEASEWEB, located in The Netherlands, Haarlem, J.W. Lucasweg 35, 2023 BE, registered with the Chamber of Commerce in Amsterdam under number 4987.

1. Definitions

- 1.1. Account: the customer name allowing CUSTOMER access to LEASEWEB's system.
- 1.2. Annex: appendix with the agreement and / or Terms and Conditions.
- 1.3. Bandwidth: the amount of bits transferred through a connection per time unit.
- 1.4. Bit: Binary digit. The smallest possible unit in a computer. The value of a bit is 0 or 1.
- 1.5. Bps: Bytes per second.
- 1.6. bps: bits per second.
- 1.7. Byte: The unit representing the data size. A character takes up 1 byte (or 8 bits) of space. Among other things this unit is used to represent disk space and data traffic.
- 1.8. Data Traffic: all traffic which is generated by CUSTOMER's website or server. Incoming and outgoing, with the exception of backup traffic, measured in Mb or Gb.
- 1.9. Service: The specified service agreed upon by LEASEWEB and CUSTOMER as documented in the Agreement.
- 1.10. Email address: an address code in the CUSTOMER's name in order to exchange electronic messages via the Internet.
- 1.11. Gigabyte (Gb): 1,000,000,000 bytes.
- 1.12. Gigabit (GB): Gbit 1,000,000,000 bits. Among other thing his unit is used to represent bandwidth.
- 1.13. Hardware: computer- and related equipment.
- 1.14. Hosting: placing and administrating data on a server.
- 1.15. Dial up Number: the telephone number LEASEWEB uses to allow CUSTOMER access to the system and the Internet.
- 1.16. Internet Connectivity: the connection to the internet used by CUSTOMER's website and / or equipment, hosted by LEASEWEB. Internet Connectivity can occur as a data traffic or bandwidth package.
- 1.17. Kilobyte (Kb): 1,000 bytes.
- 1.18. Kilobit (KB): Kbit, 1,000 bits. Among others this unit is used to represent the bandwidth.
- 1.19. Log-In Procedure: the procedure determined by LEASEWEB allowing CUSTOMER to gain access to the system and the Internet.
- 1.20. Megabyte (Mb): 1,000,000 bytes
- 1.21. Megabit (MB): Mbit, 1,000,000 bits. Among others this unit is used to represent the bandwidth.
- 1.22. Modules: components which are placed in a website. Modules consist of a combination of programming language (scripts), databases and regular website pages.
- 1.23. 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.
- 1.24. Network: the equipment used for transferring and (if applicable) routing as well as other technical means enabling signal to be transferred between connection points via cables, radio waves, optical means and other electro magnetic means and for the part where these are controlled by LEASEWEB.
- 1.25. Agreement: the agreement between LEASEWEB and CUSTOMER which is the basis for the service supplied by LEASEWEB.
- 1.26. Server: a computer which is hooked up to the Internet and used to exchange and store data.
- 1.27. Service Level: This is a predetermined level of support binding LEASEWEB to a service package which is specified in the Agreement.
- 1.28. Disk Space: the amount of space on the LEASEWEB server allocated for CUSTOMER to store data, depicted in Mb or Gb.
- 1.29. Spam: bulk sending of large amounts of unsolicited emails 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.
- 1.30. System: computer equipment and peripherals enabling LEASEWEB to allow CUSTOMER access to the Internet and Hosting services.
- 1.31. Usage: the amount of data traffic and / or bandwidth used by CUSTOMER during a period of one month.
- 1.32. Website: one or more integrated Internet pages, preceded by a home page.

2. General

- 2.1. These Terms and conditions are applicable to all offerings and agreements in which LEASEWEB 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.
- 2.2. Applicability of possible purchase, or other conditions by CUSTOMER is explicitly denied. At the time of the actualization of the agreement CUSTOMER is relied upon to have agreed with the explicit applicability of these Terms and Conditions. This also goes for additional orders placed by CUSTOMER, either spoken, by telephone, by fax, by email or by any other means conveyed to LEASEWEB, making a written confirmation by LEASEWEB not (still) obligatory.
- 2.3. Deviating Terms and Agreements only apply if and when LEASEWEB has accepted these explicitly and in writing.
- 2.4. All offers made by LEASEWEB are without obligation. Only after an acceptance in writing by LEASEWEB an Agreement is established. An invoice sent by LEASEWEB is equal to a written acceptance. LEASEWEB reserves the right to refuse a would-be customer for reasons left to her discretion.
- 2.5. A representative wishing to come to an agreement on behalf of a legal entity may be requested by LEASEWEB to produce their authorization in the matter.
- 2.6. 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 telephone bills, unless agreed upon otherwise.

- 2.7. Some of LEASEWEB's services are outsourced to third parties. LEASEWEB accepts no responsibility for services provided by third parties.
- 2.8. CUSTOMER hereby authorizes LEASEWEB to add his or her personal details to her database needed for administrative and operational tasks. This database is only accessible to LEASEWEB and is not passed on to third parties, unless LEASEWEB is obligated to by law or court order. CUSTOMER is to notify LEASEWEB as soon as possible in case of alterations in relevant data.
- 2.9. CUSTOMER will convey all changes to her contact details by mail or fax to LEASEWEB. LEASEWEB will only communicate with known contacts provided by CUSTOMER. CUSTOMER will ensure the contacts are available for telephone and email.
- 2.10. Only LEASEWEB's legal partners are allowed to enter agreements on behalf of LEASEWEB.

3. Delivery

- 3.1. Delivery means placing a website on the Internet, connecting for usage of the Internet connection and / or the computer equipment and or realizing other services or transferral of products.
- 3.2. Delivery periods can only be estimated. Exceeding the delivery time never entitles CUSTOMER to be payed damages or cancellation of the order.
- 3.3. If, due to circumstances, even in case they have a cause within LEASEWEB itself, LEASEWEB is temporarily or permanently unable to fulfill the order partially or completely, LEASEWEB reserves the right to partially or completely cancel or decline the order. LEASEWEB will notify CUSTOMER of such decisions.
- 3.4. 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. LEASEWEB cannot be expected to answer complaints via email personally. Conventional (to be called for) mail will be personally responded to.
- 3.5. CUSTOMER is expected to allow LEASEWEB to investigate and correct the complaints. In the event of not living up to the letter of the previous article CUSTOMER waives all claims.
- 3.6. Complaints have no effect on CUSTOMER's payment obligations.
- 3.7. The ownership of products passes from LEASEWEB to CUSTOMER only when underlying invoice has been completely payed.

4. Payment

- 4.1. All payments have to be made in advance, unless otherwise agreed upon in writing. Services are invoiced each 6 months in advance, unless otherwise agreed upon in writing. Services will be payed via direct debit, unless otherwise agreed upon in writing.
- 4.2. Invoices are only payable to LEASEWEB for completion.
- 4.3. 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.
- 4.4. In case of late payment LEASEWEB reserves the right to suspend or cancel the services to CUSTOMER without notification or announcement until all unpaid invoices have been paid, despite the payment deadline.
- 4.5. In case of late payment LEASEWEB will be allowed to claim the in court and out of court costs with CUSTOMER. Out of court costs will bet set at fifteen (15) percent of the amount payable, with a minimum of €125.-- LEASEWEB is not obligated to show the costs that have in fact been made.
- 4.6. LEASEWEB is allowed to deduct her claims with CUSTOMER from the debts owed to CUSTOMER by LEASEWEB, even if these claims prove not to be admissible.
- 4.7. LEASEWEB is authorized to change the tariffs. These changes will be announced to CUSTOMER at least one (1) month in advance through usual channels. LEASEWEB is allowed, at all times, to change pricing of payment or other costs. These changes will be announced at least one (1) month in advance on the news pages of LEASEWEB's website. If CUSTOMER does not wish to submit to these changes, he or she is authorized, deviant from 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. Website

- 5.1. LEASEWEB designs, develops and administrates new and existing websites.
- 5.2. The website, in its totality, is property of LEASEWEB. She is legal owner to all rights of industrial and intellectual property among others in the case of content, design, texts, source code, and the form of the website. The other party only reserves the right to use the website. LEASEWEB is authorized to mark each page "© Copyright LEASEWEB <date>" with a link to her website.
- 5.3. If an existing website forms the basis of a website developed by LEASEWEB, the original design remains property of CUSTOMER. CUSTOMER will store this website by his or her own means. From the moment LEASEWEB further develops the existing website, it becomes property of LEASEWEB which then reserves all rights. If CUSTOMER is to cancel the agreement, he or she is then only authorized to use the original website.
- 5.4. CUSTOMER is not authorized to make changes to or copy the website, or place it elsewhere on the Internet.
- 5.5. CUSTOMER guarantees that no rights by third parties dispute the making available of equipment, software, text, video or audio material to LEASEWEB and brining about changes to the material and CUSTOMER assumes full responsibility for any action taken based on violation of rights of third parties.
- 5.6. All source material needed for the design of the website need to be made available to LEASEWEB in digital format within 14 days after the agreement is made.
- 5.7. LEASEWEB will, depending on the size of the website, place the website on the Internet within 12 weeks after receiving all source material. As soon as CUSTOMER signs off on the concept, the lease period will commence. This period will commence at the latest in 4 weeks after presenting the website.
- 5.8. Every invoiced website is entitled to one adaptation per year free of charge within a margin specified by LEASEWEB. CUSTOMER will be billed for each time per year the amount noted above is exceeded or for considerable changes compared to the work agreed upon.

6. Modules

- 6.1. LEASEWEB designs, develops and administrates modules.
- 6.2. The module in its totality is property of LEASEWEB. She is legal owner to all rights of industrial and intellectual property among others in the case of content, design, texts, source code, and the form of the module. The other party only reserves the right to use the website. LEASEWEB is authorized to mark each module "© Copyright LEASEWEB <date>" with a link to her website.
- 6.3. Modules cannot be handed down, unless agreed upon otherwise in writing.

7. Server hosting

- 7.1. In her cabinets LEASEWEB places servers she administrates herself and / or which are leased out to her customers. In addition to leasing the space and the server CUSTOMER is able to obtain a Service Level.
- 7.2. Despite the Service Level, CUSTOMER remains responsible for the functioning of the server at all times.
- 7.3. LEASEWEB cannot be held legally accountable for CUSTOMER's equipment. Among other things this means hardware, software, data and / or applications.
- 7.4. If CUSTOMER wishes to place or remove her equipment from LEASEWEB CUSTOMER will notify LEASEWEB in writing at least two days in advance. LEASEWEB reserves the right to deny CUSTOMER access to her own equipment in case CUSTOMER does not meet her current or future obligations, flowing from the server hosting agreement between LEASEWEB and CUSTOMER.
- 7.5. CUSTOMER will place her equipment in the manner described by LEASEWEB. If CUSTOMER does not occupy the conformed space, LEASEWEB is authorized to use this space temporarily. At CUSTOMER's request LEASEWEB will clear this space within two working days, so CUSTOMER can place her equipment.

8. ADSL

- 8.1. LEASEWEB supplies ADSL through KPN or other third parties.
- 8.2. CUSTOMER enters an agreement with LEASEWEB and KPN for the supply of ADSL. In the agreement the Terms and Conditions for Sales, Terms and Conditions Mxstream, Terms and Conditions for services rendered (only applicable for technician's installation), Additional Terms and Conditions for assembly installation services (only applicable for technician's installation) by KPN apply. CUSTOMER agrees to these conditions.

9. Usage

- 9.1. LEASEWEB supplies internet connections through third parties. Websites are placed on her own servers or those of third parties. Servers are placed in leased locations.
- 9.2. CUSTOMER is authorized to utilize the help desk for support during regular office hours.
- 9.3. CUSTOMER supplies the needed hardware and software, peripherals and connections to make access to the system possible.
- 9.4. CUSTOMER is bound by the amount of disk space as described in the agreement. CUSTOMER is responsible for exceeding this amount. If the allocated amount is exceeded, LEASEWEB is authorized to remove (file) information without any legal obligations concerning LEASEWEB.
- 9.5. CUSTOMER will refrain from hindering or damaging other customers, Internet users or the LEASEWEB 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 LEASEWEB, other customers and Internet users. CUSTOMER is only authorized to run processes or applications if a direct connection, engaged or specifically authorized by LEASEWEB, with the system exists.
- 9.6. It is prohibited to utilize the connection with LEASEWEB, 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. Among other things, but not exclusively this implies the following actions and demeanors: spamming: the unsolicited sending of bulk amounts of email with similar content and / or unsolicited posting of bulk amounts of messages with similar content on news groups on the Internet; 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; hacking: gaining access to computers or computer systems on the Internet without permission.
- 9.7. If LEASEWEB 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. LEASEWEB reserves the right to claim any damages flowing from the issue with CUSTOMER.
- 9.8. 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 LEASEWEB has specifically authorized this action in writing.
- 9.9. Staff from or on behalf of LEASEWEB will not gain knowledge of CUSTOMER's personal electronic mail or monitor CUSTOMER's actions on LEASEWEB's system or other systems on the Internet, unless LEASEWEB has a strong suspicion that CUSTOMER is using the LEASEWEB system to either hack other computers or is using LEASEWEB's services for any other illegal or otherwise illegitimate demeanor.

10. Access

- 10.1. LEASEWEB is authorized to block CUSTOMER's access to the website, his and / or her email 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.
- 10.2. Reinstating of CUSTOMER's privileges will occur if and when CUSTOMER has met his or her commitments

- within a time frame specified by LEASEWEB.
- 10.3. LEASEWEB is authorized to deny or limit CUSTOMER's access to LEASEWEB if customer exceeds his or her monthly allocated data traffic quota. The suspension or limitation is only lifted after CUSTOMER has met or proven his or her willingness to meet the applying payment requirements to LEASEWEB's satisfaction.
 - 10.4. LEASEWEB reserves the right to assert limiting measures in case of extreme data traffic.
 - 10.5. LEASEWEB 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.
 - 10.6. Lifting a suspension or limitation requires payment of € 125.-- by CUSTOMER

11. Domain names

- 11.1. LEASEWEB provides the registration of domains with the "Stichting Internet Domeinregistratie and / or Internic and / or other domain registration organizations on behalf of CUSTOMER for a fee. The choice of the domain name is at the cost and the risk of CUSTOMER. LEASEWEB accepts no responsibility in the matter of choice and use of the domain name.
- 11.2. Domain names can only be registered if they are still available and CUSTOMER has the right of use.
- 11.3. Should CUSTOMER be denied the right to use the domain name by the authorized organization, under no circumstances LEASEWEB can be held accountable for the direct and indirect consequences. Nor will LEASEWEB have to take action to restore the right to use the domain name.

12. Administration

- 12.1. LEASEWEB 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 LEASEWEB to CUSTOMER.
- 12.2. LEASEWEB is authorized at all times to make alterations to dial up numbers, to the login procedures, to the account and to the email addresses without this bringing about an obligation to pay damages for LEASEWEB to CUSTOMER. In such a case LEASEWEB will notify CUSTOMER of the changes at the earliest possible convenience.
- 12.3. LEASEWEB provides the availability of the LEASEWEB systems, and she efforts the utmost to provide optimal availability. However LEASEWEB cannot be held accountable for outages or limited availability of the LEASEWEB systems due to circumstances not to be foreseen within reason. Among other things, but not exclusively this implies discontinuations of the connection to the Internet, outages in the telephone network, outages with third parties, complete occupation of the dial up lines with third parties, disruptions in the electrical network or any other outages outside the power of LEASEWEB. Nor can LEASEWEB be held accountable for damages flowing from necessary maintenance by or due to LEASEWEB.

13. Accountability

- 13.1. CUSTOMER will be held accountable for any damages to LEASEWEB in case of action or inaction by CUSTOMER in violation of the obligations flowing from these Terms and Conditions.
- 13.2. CUSTOMER will be held accountable for any damages to LEASEWEB in case of the illegitimate or wrongful use of any service by LEASEWEB. For each day CUSTOMER is in violation, he or she forfeits an immediate claim of € 100.-- for each violation or for each day as LEASEWEB chooses.
- 13.3. Customer clears LEASEWEB of all claims made by third parties in case of damages caused by the use of or because of CUSTOMER's use of LEASEWEB's services.
- 13.4. LEASEWEB cannot be held accountable for security and / or storage of any data stored.
- 13.5. LEASEWEB accepts no responsibility whatsoever in case of any damages which, as a result of late or incorrect placement or relocation of a website, email, equipment and / or any other Internet application, might occur to CUSTOMER.
- 13.6. LEASEWEB accepts no responsibility whatsoever in case of any damages which, as a result of outages or unavailability of a website, email, equipment and / or any other Internet application, might occur to CUSTOMER.
- 13.7. Should LEASEWEB be responsible for any damages, this responsibility is always limited to compensation of direct damages up to the amount agreed upon for that particular agreement, with a maximum of €10,000.-- 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.
- 13.8. CUSTOMER will refrain from publicly making negative statements about LEASEWEB if a disagreement has occurred between CUSTOMER and LEASEWEB. For each day that CUSTOMER is in breach, he or she forfeits a fine of €100.-- each breach or each day the breach lasts, such to LEASEWEB's choice.

14. Duration

- 14.1. 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 a similar term.
- 14.2. 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 term set in these conditions.
- 14.3. A cancellation needs to be made using the completely filled out cancellation form by LEASEWEB. This form can be found at <http://leaseweb.com/end>. The cancellation needs to be sent via regular mail or fax.

15. Termination

- 15.1. If CUSTOMER fails to comply with an agreement made with LEASEWEB or these terms and conditions, in time or in order, or if LEASEWEB has serious doubts about CUSTOMER's ability to meet contract requirements towards LEASEWEB, LEASEWEB is authorized, without notification or legal intervention, either to suspend the agreed LEASEWEB services or partially or completely terminate the agreement without LEASEWEB being accountable for any damages not taking into account LEASEWEB's further due rights.
- 15.2. LEASEWEB is authorized to partially or completely terminate the agreement - effective immediately - without prior notice if CUSTOMER: provides LEASEWEB with false and / or incorrect personal data; has neglected to submit correct or altered 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.
- 15.3. LEASEWEB 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 LEASEWEB.
- 15.4. Cancellation by LEASEWEB on account of articles 15.1 and / or 15.2 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 three (3) working days.
- 15.5. Should one or more of these terms listed here be declared invalid in court, this has no consequences for the other terms.

16. Force Majeure

- 16.1. Force majeure shall be deemed to refer to all external causes which were not reasonably foreseeable and as a result of which LEASEWEB is not able to fulfill its obligations towards the customer. These include, but not exclusively, faults in the connection to the internet, faults in the telecommunications infrastructure and faults in networks.
- 16.2. LEASEWEB reserves the right to invoke force majeure if the circumstance which prevents (further) fulfillment occurs after LEASEWEB was required to fulfill its obligation.
- 16.3. During the period of force majeure the delivery and other obligations of LEASEWEB shall be suspended. If the period in which LEASEWEB 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.

17. Disputes

- 17.1. All agreements between LEASEWEB 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 LEASEWEB and the customer.
- 17.2. 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 LEASEWEB has made use of article 17.1, to elect to have the dispute settled by the legally competent court.
- 17.3. 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. In the event of invalidity of one or more provisions of these terms and conditions, the parties shall be bound by rules which are as far as possible of equivalent import and are not liable to be declared invalid.

18. Workings

- 18.1. LEASEWEB is authorized at all times to alter these terms and conditions. Changes will be final one (1) month after publication on the website.
- 18.2. In case of conflicting interests between articles in the agreement, the terms and conditions or the annexes the following order applies: The agreement, the annexes, the terms and conditions.
- 18.3. These terms and conditions render all previous ones obsolete.