

Terms & Conditions

These terms and conditions apply to agreements made between theMatchBox BV, with registered office at Corluylei 43, box B, 2150 Borsbeek, Belgium, and registered with the register of legal entities of Antwerp (Division Antwerp) under number 0599.839.783 ("theMatchBox") and the user identified in the Work Order ("the Client").

1. Definitions

- "Effective Date" means the date set out in the Work Order;
- "Prices" means the prices for the Services set out in the Work Order;
- "CPI" means the Consumer Price Index Index published by Statbel (<https://statbel.fgov.be>).
- "Services" means the services described in the Work Order;
- "Licensed Software": means a version of theMatchBox search & match software;
- "Source Code": means the source code and documentation of the Licensed Software.

If at the Client's request theMatchBox commences the performance specified in the Work Order prior to the signing of these Terms & Conditions ("the Agreement"), then the start of the performance is qualified as acceptance of the General Terms & Conditions.

2. Basis of Purchase

2.1 In consideration of the payment of the Prices by the Client or on the Client's behalf, theMatchBox agrees to provide the Services to the Client in accordance with the terms of this Agreement.

2.2 theMatchBox maintains a policy of continuous development and improvement and the right is reserved to alter the design or specification of the Services without notice to the Client.

2.3 The Client shall ensure that theMatchBox has adequate access to such equipment and/or facilities and systems and all data, materials, documentation or any other information which is reasonably required by theMatchBox in relation to the provision of the Services.

2.4 The Client shall ensure that at all times any premises where Services are to be provided fully comply with all statutory and other official regulations concerning health and safety and that a safe working environment is provided for the MatchBox's representatives.

2.5 For smooth operation of the Services, the Client shall appoint at least one member of staff to become a "Principal Operator". The Principal Operator should ensure that someone is available to assist the MatchBox's support teams in carrying out their duties as detailed in this Agreement

3. Prices & Payment

3.1

The Prices for the Services shall be as stated in the Work Order and are exclusive of any VAT and any other applicable tax or levies imposed by the government, which shall be the responsibility of the Client. These Prices are exclusive of travel time and/or expenses.

3.2

The Prices shall remain fixed for the term of this Agreement [subject to an annual CPI increase].

3.3

the MatchBox shall be entitled to invoice for the provision of the Services on or at any time after delivery of the Services.

3.4

All invoices are payable thirty (30) calendar days after the date of invoice. The absence of a protest of an invoice in writing within eight (8) business days from the date of sending of the invoice constitutes irrevocable acceptance of the invoice and the Services set out within it.

3.5

After expiry of the payment period and without prior notice being required, the Client incurs conventional interest charges equaling the interest rate as defined in Article 5 of the Belgian Act on payment arrears (Act 2 August 2002, Belgian Official Journal 7 August 2002). This interest is calculated as from the deadline for payment of the invoice up until the date of full payment.

4. Warranties

4.1

theMatchBox warrants that the Services supplied by theMatchBox shall comply with industry standards for theMatchBox's industry sector and shall be performed by appropriately qualified and trained personnel with reasonable skill and care.

4.2

The Client acknowledges that the internet is not a secure environment and that it is not possible for either party to guarantee the integrity or security of any data sent between us or sent to any third party.

4.3

The content, accuracy, legality and currency of the data provided to theMatchBox by The Client is The Client's sole responsibility and The Client shall ensure that such data does not contain any false, misleading, inaccurate, infringing or other actionable material.

5. Liability

5.1

Nothing in this Agreement shall exclude or limit theMatchBox's liability for fraud or for death or personal injury resulting from the negligence of theMatchBox or its agents.

5.2

The liability that theMatchBox may incur is derived from a best effort obligation that in cases of claim must be appropriately demonstrated by The Client. Insofar as maximally permitted by applicable law, the total liability of theMatchBox based on attributable failure in the fulfilment of the Agreement is limited to the reimbursement of direct damages up to a maximum of 20% of the compensation owed by The Client for the specific Services or Licensed Software that gave rise to the damages (excluding VAT). If the Services extend over multiple years, then for the compensation of direct damages theMatchBox may be held to a maximum of 20% of the value of the amounts invoiced for the performance of this Agreement for the specific Services or Licensed Software (excluding VAT) over a period of twelve (12) months prior to the date that the damages-causing event occurred. This provision applies regardless of whether the claim is brought on a contractual or extra-contractual basis.

5.3

Neither party shall be liable to the other under this agreement in contract, tort (including negligence) or otherwise for:

- a) any economic losses, loss of revenues, profits, contracts, business, data, or anticipated savings;
- b) any loss of goodwill or reputation; or
- c) any other special, indirect or consequential losses.

5.4

The Client acknowledges and agree that the limitations contained in this clause 5 are reasonable in all the circumstances and that the Client has taken independent legal advice.

6. Intellectual Property Rights

6.1

All intellectual property rights in theMatchBox's software systems and in any works created as a result of the provision of the Services by theMatchBox shall at all times vest in or remain vested in theMatchBox or its licensors as the case may be. theMatchBox extends to the Client a limited, non-exclusive and non-transferable right of use in respect of the results of the Services it performs and/or the Licensed Software, as from the moment of full payment of all related invoices. The Client may only use the results of the Services and/or the Licensed Software in the manner prescribed by theMatchBox. The risks associated with the Services and/or the Licensed Software provided transfer to the Client at the moment of delivery. The Client is not permitted to remove or alter any indication concerning the confidential nature or pertaining to copyright, trademark, trade name or any intellectual or industrial property right from the software, websites, databases, equipment or materials.

6.2

For the avoidance of doubt, the right of use does NOT include (amongst others) the following rights:

- a) The right to access, use, possess, exploit or modify of the Source Code of the Licensed Software;
- b) The right to copy, translate, reproduce, duplicate, adapt, edit, reverse engineer, decompile or disassemble or change in any way the Licensed Software and reproduce the results thereof;
- c) The right to provide access to, sublicense or distribute the Licensed Software to third parties;
- d) The right to further commercialize the Licensed Software.

The Client shall indemnify and hold the MatchBox harmless from all damages, claims and liabilities resulting from an infringement by the Client or the Client's personnel of the abovementioned right of use.

Term & Termination

7.1

This Agreement shall commence on the Effective Date and shall endure indefinitely until terminated by either the Client or the MatchBox giving at least 3 months written notice of such cancellation at any time after the Effective Date.

7.2

The standard term of this Agreement is minimum 12 months, unless stipulated differently in the Work Order.

7.3

Either party may terminate this Agreement forthwith by notice in writing without liability to the other in any of the following events:

- a) that other party commits any material breach of the terms of this Agreement and fails to remedy that breach within 30 days of being required to do so;
- b) an encumbrancer takes possession or a receiver or an administrative receiver is appointed over any of the property or assets of that other party;

- c) that other party makes any voluntary arrangement with its creditors or becomes subject to an administration order;
- d) that other party is bankrupt or goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the MatchBox resulting there from effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement);
- e) any distress, execution, sequestration or other process being levied or enforced on the property of that other party which it does not discharge within 7 days;
- f) anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to that other party;
- g) that other party ceases, or threatens to cease, to carry on business; or
- h) that other party acts in a manner which in the opinion of the other could bring or tend to bring the good name of the other into disrepute.

Confidential Information

8.1

Each party will keep in confidence any information of a confidential nature disclosed in connection with this Agreement, including without limitation any information or materials relating to the functioning or pricing of the MatchBox's systems and services, and will not divulge the same to any person (other than their senior employees who need to know the information) without the consent of the other or as required by law or any other regulatory body.

8.2

This Clause will not apply to information:

- a) in the public domain other than through a breach of this Agreement
- b) in the possession of the receiving party before such divulgence has taken place
- c) lawfully obtained from a third party who is free to divulge the same.

8.3

The confidentiality obligation shall continue to exist for a period of three (3) years after disclosure and will in any event end no later than three (3) years after the end of this Agreement, regardless of the cause of the termination of the Agreement.

8.4

theMatchBox may also include the Client in its customer list, publish a brief description of the assignment and use the Client's name and trademark for publicity purposes and PR activities.

General

9.1

This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof.

9.2

No variation or modification of this Agreement shall be in any way effective unless in writing and signed by persons authorized by theMatchBox and the Client.

9.3

Neither party shall be entitled to assign, sub-license or otherwise transfer this Agreement whether in whole or in part without the prior written consent of the other party.

9.4

No forbearance, delay, or indulgence by either party in enforcing the terms of this Agreement shall prejudice or restrict the rights of that party.

9.5

Notices given under this Agreement must be in writing and may be delivered personally, by first class post or fax to the address of the recipient set out in an Order. Notice shall be deemed to have been given: if delivered personally, when delivered; if sent by post, 7 days after posting it; and if sent by facsimile, when received in full.

9.6

Nothing in this Agreement shall be construed as creating a partnership or joint venture of any kind between theMatchBox and the Client or as constituting either of us as the agent of the other for any purpose whatsoever.

9.7

Each party shall comply with its respective obligations under the GDPR directive including any applicable Codes of Practice whether mandatory or voluntary.

9.8

Regardless of the nature and value of the juristic act to be demonstrated, theMatchBox may at all times demonstrate said act based on the following additional evidence: copies or reproductions in any form whatsoever (carbon copy, photocopy, microfilm, scan, etc.), via information carrier, fax, telex and email. This evidentiary material has the same basic force as a private instrument drafted in accordance with the provisions of the Belgian Civil Code. In the event a signed copy of the Agreement is disclosed by email in a .pdf or .jpeg file or another form of exact copy, the signature included within it shall create a valid and binding obligation on the part of the signer (or the person in the name of whom and on whose account the document is signed) with the same value, force, and effect as an original signature.

Force Majeure

10.1

theMatchBox reserves the right to defer the date of delivery or to cancel the Agreement or reduce the volume of the Services ordered by the Client, the customer (without liability to the Client) if it is prevented from, or delayed in, the carrying on of its business due to circumstances beyond the reasonable control of theMatchBox including, without limitation, acts of God, governmental action, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

Law and Construction

11.1

This Agreement shall be governed by and construed in accordance with Belgian Law and the parties submit to the nonexclusive jurisdiction of the Belgian courts.