

General Terms and Conditions – Adchieve

These General Terms and Conditions govern all offers, quotations, and services of ADchieve B.V. and are an integral part of each agreement between ADchieve B.V. and its clients.

Article 1. Definitions

- 1.1. Contractor: ADchieve B.V., established at Sint Janssingel 92, 5211 DA in 's-Hertogenbosch, and registered in the Commercial Register of the Chamber of Commerce with number 60421533.
- 1.2. Client: a natural person or legal entity conducting a profession or operating a company who or which concludes an Agreement with the Contractor in order to be able to make use of ADchieve.
- 1.3. Agreement: the agreement between the Contractor and the Client based on which the Contractor enables the Client to make use of ADchieve and of which these General Terms and Conditions are an integral part.
- 1.4. ADchieve: an online platform which the Contractor has provided to the Client which allows the Client to create and manage campaigns on advertising platforms.
- 1.5. Account: the personal management panel and user interface which the Contractor makes available to the Client for the purpose of ADchieve.
- 1.6. User: an employee of the Client who will actually use ADchieve.
- 1.7. General Terms and Conditions: These conditions.
- 1.8. Party: The Contractor or the Client as a party to the Agreement, jointly referred to as: Parties.
- 1.9. Proposal: a written or electronic offer by the Client.

Article 2. Applicability

- 2.1. Any conditions or exceptions raised by the Client are not part of the Agreement, unless the Contractor has explicitly accepted them in writing.
- 2.2. In case of any conflicts between the various legal documents, the following order will apply:
 - i. the Agreement;
 - ii.a potentially concluded Service Level Agreement;
 - iii. a potentially concluded processor agreement;
 - iv. these General Terms and Conditions.

Article 3. Conclusion/Implementation

- 3.1. An Agreement will be concluded at the moment the Contractor receives the acceptance of the Proposal from the Client.
- 3.2. The Contractor will make an Account available to the Client as soon as possible after the conclusion of the Agreement which will enable the Client to make use of ADchieve.
- 3.3. Delivery periods are indicative and will never be deadlines.
- 3.4. The Contractor will carry out the work with care based on the information (to be) provided by the Client. The Client will guarantee the accuracy, completeness, and consistency of the data and ensure that the Contractor receives these data in a timely fashion. The Contractor has the right, but is never required, to verify the accuracy, completeness, or consistency of the provided data or specifications, and to suspend the agreed work if shortcomings are found, until the moment the Client has resolved these shortcomings. However, the Contractor is not required to do so.
- 3.5. The Contractor has the right to engage third parties for certain activities in the context of the implementation of the Agreement.
- 3.6. The Contractor will always have the right to implement (technical) facilities or take measures against fraud and other illegitimate acts by the Client and its User(s).
- 3.7. Users will also be bound to the General Terms and Conditions. The Client guarantees that the Users will comply with the General Terms and Conditions.
- 3.8. The hosting provider of the Contractor will create a backup of ADchieve and the data of the Client stored therein at the end of every day. Backups will be kept for fourteen (14) days and can be removed or overwritten by the Contractor after this period. This means that only backups not older than fourteen days can be restored.

The Contractor is not able to recover individual files or data. The files and data stored in ADchieve after the moment of the backup can be lost when restoring the backup.

The Contractor will restore a backup at no cost if files and data have been lost due to shortcomings or interruptions that are reasonably at the risk and account of the Contractor.

If files or data have been lost without the existence of an attributable shortcoming in the fulfilment of the Agreement by the Contractor (for example if the Client or one of its employees has accidentally removed certain files or data), the Contractor can charge all reasonable costs and hours of work related to the restoration of the backup to the Client.

3.9. The Contractor will only make regular copies (backups) of data kept in ADchieve by the Client and make these available to the Client, whether or not against the payment of a reasonable fee, if this has been set out in the Agreement or the Service Level Agreement.

Article 4. Duration and termination

4.1. The Agreement will be concluded for an indefinite period, unless agreed otherwise.

4.2. The Agreement can be terminated by the Parties with due observance of a notice period of two calendar months. This termination may take place without substantiation. Any fees already paid will not be refunded. Termination can take place by email.

4.3. The Contractor has the right to fully or partially dissolve, terminate and/or suspend the Agreement with immediate effect and without judicial intervention being required if (the Contractor reasonably assumes that):

- a. the Client will not (fully) fulfil its obligations arising from the Agreement (in a timely fashion);
- b. the Contractor learns of circumstances after the conclusion of the Agreement which give it sound reason to fear that the Client will not fulfil its obligations;
- c. the Client was requested to provide security for the fulfilment of the obligations arising from the Agreement and this security is not provided or is insufficient;
- d. the Contractor can no longer be expected to implement the Agreement based on the original conditions due to the delay caused by the Client;
- e. the Client passes away, applies for suspension of payments, or has been liquidated;
- f. attachment is levied on any of the assets of the Client;
- g. circumstances arise of such a nature that fulfilment of the Agreement is impossible, or unaltered performance of the Agreement cannot reasonably be required of the Contractor.

4.4. In case of dissolution or termination/cancellation, the right of use of the Client as set out in Article 13(2) will expire as of the date on which the Agreement ends.

Article 5. ADchieve conditions

5.1. The Client may not use ADchieve in violation of any law and regulation or for one of the following purposes, the so-called "Forbidden Activities". The Forbidden Activities include:

- unlawful, indecent, obscene, or other morally unacceptable activities;
- distributing unlawful, harmful, insulting, threatening, damaging, vulgar, obscene, discriminating, hateful, or otherwise offensive or illegal materials;
- distributing materials that may lead or contribute to a criminal act or otherwise infringe on relevant laws and regulations;
- obtaining unauthorised access to other computer systems;
- distributing and/or spreading unwanted emails, chain letters, or spam, or other activities that lead to violations of the privacy of third parties;
- creating, transferring, using and/or storing electronic (copies of) materials protected by any intellectual property rights of a third party without the explicit permission of this third party, or making use of materials that violate the intellectual property rights of third parties in any other way;
- circumventing, disabling, or otherwise tampering with security-related features or other properties of ADchieve, or imposing any limitations to the use of ADchieve.



- 5.2. The Client will act with a level of care vis-à-vis ADchieve which may be demanded from the Client.
- 5.3. The information collected using ADchieve is not accessible and cannot be used by and for other clients of the Contractor.
- 5.4. If the Contractor believes that a risk arises to the performance of the server(s) or the network of the Contractor or third parties, particularly due to excessively requesting or submitting data (including the occurrence of performance issues), the Contractor has the right to take all measures it considers reasonably necessary to mitigate or prevent this risk.
- 5.5. If the Client acts in violation of the General Terms and Conditions, the Contractor has the right to deny the Client access to ADchieve or to terminate or suspend the Agreement.

Article 6. Access and updates

- 6.1. The Contractor will provide the Client access to (the management of) an Account during the effective period of the Agreement. The Client will be provided with a username and password for this purpose. A separate username and password can be requested for each User.
- 6.2. The Client may not disclose or transfer the username and password to third parties. The Contractor is not responsible for abuse and may assume that actions taken by the Account are actually performed by or on behalf of the Client. The Client must inform the Contractor if the Client suspects that the password is known by third parties. The Contractor has the right to take effective measures in these cases.
- 6.3. If a Party knows or suspects that the login credentials of the Client or its User(s) are in the possession of unauthorised persons or that these login credentials are being abused, this Party will inform the other Party and the Parties will strive to take appropriate measures.

Article 7. Availability, maintenance, and helpdesk

- 7.1. The Contractor will strive to achieve the uninterrupted availability of ADchieve, but does not offer any guarantees in this respect, unless agreed otherwise in the Agreement by means of a Service Level Agreement designated as such.
- 7.2. The Contractor has the right to make ADchieve temporarily unavailable for the purpose of maintenance, modifications, or improvements to/of ADchieve and the web servers of the Contractor. The Contractor will strive to arrange this unavailability in such a manner that the Client suffers as little nuisance as possible.
- 7.3. The Contractor will never be required to offer any compensation for any damage suffered by the Client based on the mentioned unavailability.
- 7.4. The Contractor cannot guarantee that all data from the AdWords campaign will be updated on time because the Contractor depends on the systems and services of third parties, such as APIs. This will be a situation of force majeure as referred to in Article 12.

Article 8. Personal data

- 8.1. If the Client and/or Users process personal data through ADchieve, both the Client and the Contractor will be covered by (European) privacy legislation, in which respect the Client is the 'controller' and the Contractor the 'processor' based on the definitions of this legislation.
- 8.2. The processing by the Contractor will exclusively take place in the context of the Agreement, as well as those purposes reasonably related to the Agreement or those that have been determined with further permission.
- 8.3. The Client hereby gives the Contractor permission to hire subcontractors (subprocessors) in the context of the Agreement. If the Contractor intends to engage new subcontractors for the processing of personal data, the Contractor will inform the Client of this in a timely fashion. The Client will subsequently have two weeks to submit a written objection to the intention of the Contractor. If the Client does not object within the mentioned period of two weeks, the Client will be deemed to have given its permission.
- 8.4. If the Client objects to the intention of the Contractor to engage a new subcontractor within the aforementioned period, both Parties will



strive to find a reasonable solution in sound consultation. If the Parties cannot reach an agreement on the intention of the Contractor, the Contractor will have the right to engage the new subcontractor in question, and the Client will have the right to terminate the Agreement with effect from the date on which the new subcontractor will be engaged.

8.5. The Contractor will strive to take suitable technical and organisational measures concerning the processing of personal data against loss or any form of unlawful processing (such as unauthorised access, modification, or disclosure of personal data). The Contractor strives to ensure that the security meets a level which is not unreasonable considering the state of technology, the sensitivity of the personal data, and the costs associated with implementing the security measures. The Contractor does not guarantee that the security will always be effective.

8.6. The Client will only provide personal data to the Contractor to be processed if it has ensured that the required security measures have been implemented. The Client will inform the Contractor if the Contractor must take additional security measures. The Parties will subsequently enter into reasonable negotiations in order to make detailed agreements on any additional security measures and associated costs.

8.7. The Client guarantees that it will only process personal data in and using ADchieve in a fully legitimate manner. The Client guarantees that the content, the use, and the instructions concerning the processing of personal data are not illegitimate and do not violate any rights of third parties. The Client indemnifies the Contractor against all claims by third parties that arise from a failure to meet the aforementioned guarantee by the Client.

8.8 The Contractor will immediately inform the Client after discovering a data breach.

8.9. If the Client must change, remove, or share data stored through the Account or in ADchieve in the context of a statutory obligation, the Contractor will cooperate to the greatest extent possible. Insofar as this is in its power, the Contractor will also assist the Client with the performance of Data Protection Impact Assessments (also called DPIAs). The costs of the aforementioned cooperation will be invoiced separately to the Client as an additional service within the meaning of Article 9. The Client will pay these costs.

8.10 The Client has the right to commission audits by an independent third party which is bound to a duty of confidentiality to verify compliance with this article. Such audit may take place once per year. The Client will inform the Contractor at least two weeks prior to the intended audit. The Parties will subsequently agree on a date for the performance of the audit in sound consultation. The costs of the audit will be borne by the Client.

8.11. The Client may not collect data through ADchieve, except through the use of the features offered to the Client by means of ADchieve.

Article 9. Additional services

9.1. The Contractor may offer additional support within the structure of the cooperation and/or in the management of the campaign(s) in coordination with the Client. The additional services that are beyond the content or scope of the Agreement will be paid by the Client in accordance with the default rates of the Contractor in force at the moment of the performance of these services.

9.2. The Contractor will never be required to comply with a request for additional services and may demand the conclusion of a separate written agreement in this respect. Insofar as a fixed fee has been agreed on for the additional services, the Contractor will inform the Client – upon request – in writing about the financial consequences of the additional services. The General Terms and Conditions govern the additional services.

9.3. If additional services are necessary for the provision of services or the use of ADchieve, or if additional services are required based on the instructions of the Client, the Contractor does not require approval for the performance of these additional services. In this case, the additional services will be charged in accordance with the applicable hourly rate based on the actual hours worked.



Article 10. Price and payment

10.1. All listed rates exclude VAT and other government levies.

10.2. All prices on the Website, in quotations, Proposals, brochures, and other materials are subject to printing and calculation errors. The Contractor will not be liable for the consequences of printing and calculation errors.

10.3. The Client will owe a fee to the Contractor for the use of ADchieve. This fee must be paid monthly to the Contractor in advance.

10.4. If a non-recurring amount is charged, for example for implementation or assistance, the Contractor has the right to charge this amount in advance and to only fulfil its obligations arising from the Agreement once the Client has paid this fee.

10.5. Periodic licence fees can be charged for each period in advance. The Contractor has the right to charge these amounts by means of a standing direct debit order. The Client accepts this and will provide all necessary permissions upon request. If the direct debit order did not succeed or if the charge is reversed by the Client, the Client will have 14 days to manually complete the payment from the moment of the failed or reversed charge. If the Client has not completed the payment after these 14 days, the Client will be in default by operation of law without any notice of default being required.

10.6. AdWords budgets will be charged directly to the Client by the platforms (like Google and Bing). The Client is responsible for paying these. Any changes to the rates or amounts charged by the platforms for any reason will be borne fully by the Client.

10.7. Payment must be made within 14 days of the invoice date, unless indicated otherwise on the invoice. If a due amount is not paid (within the payment period), the Contractor will send a payment reminder which grants the Client another 14 days to meet its payment obligation. If a due amount is not paid (within this last payment period), the Client will immediately be in default without notice being required. In this case, the Contractor will have the power to (temporarily) block the Account of the Client and other services or Agreements purchased from/concluded with the Contractor, or to terminate the Agreement. The above does not affect the payment obligation of the Client.

10.8. In case of late payment, the Client will owe full compensation of both judicial and extrajudicial collection costs, at least including costs for lawyers, bailiffs, and debt collection agencies, in addition to the amount owed and the interest due thereon.

10.9. The Contractor may change the fee based on the inflation rate set out in the applicable CBS price index at any time, and this will not give the Client the right to terminate the Agreement. The Contractor also has the right to change the rates if it becomes clear that the Client has provided wrong or incomplete data.

10.10. The claim for payment will be immediately exigible if the Client is declared bankrupt, requests suspension of payments, or complete attachment is levied on the assets of the Client, the Client passes away, or if the Client is being liquidated or dissolved.

10.11. In the above cases, the Contractor will also have the right to terminate or suspend the execution of the Agreement or any part thereof not yet executed without notice or judicial intervention, without this resulting in any right to compensation for resulting damages for the Client.

10.12. The Client accepts electronic invoicing by the Contractor.

Article 11. Liability

11.1. The Contractor will never be liable for any indirect or consequential damage suffered by the Client or third parties, also including (but not limited to) business standstill, lost profits, lost savings, loss of data, turnover, or damage due to disclosure of data, and immaterial damage.

11.2. The liability of the Contractor vis-à-vis the Client on any ground (including a shortcoming in the fulfilment of a guarantee obligation and unlawful act) will for each event (in which respect a related series of events will be considered one event) be limited to the amounts paid to the Client by the Contractor with a maximum of €1000 (thousand euros).



11.3. The liability of the Contractor for an attributable shortcoming in the fulfilment of the Agreement will only exist if the Contractor is held in default in writing within 14 days of the discovery of the shortcoming, which notice must include a reasonable period to resolve the shortcoming, and the Contractor attributable continues to fail to fulfil its obligations after this period. The notice of default must give a detailed description of the shortcoming in order to give the Contractor the opportunity to respond adequately.

11.4. The Client indemnifies the Contractor against all claims by third parties on any grounds related to this Agreement and/or the use of ADchieve by the Client, including claims of the Dutch Data Protection Authority and the Netherlands Authority for Consumers and Markets (ACM).

11.5. Any limitation of liability in the Agreement or the General Terms and Conditions will not apply if and insofar as the damage in question is caused by the intent or deliberate recklessness of the managing staff of the Contractor.

Article 12. Force majeure

12.1. The implementation of the Agreement can be suspended without any right to compensation in case of force majeure – at least including interruptions in the telecommunications infrastructure, network attacks (including (d)dos attacks), attacks by malware or other malicious software, domestic unrest, mobilisation, war, interruptions in transport, strikes, import and export restrictions, company standstill, delivery stagnation, fire, floods, and failures of suppliers on whom the Contractor depends for the implementation of the Agreement.

12.2. If the situation of force majeure obstructs the fulfilment for more than two months, both Parties will have the right to terminate the Agreement with immediate effect without this leading to any obligation to pay damages.

Article 13. Intellectual property rights

13.1. Intellectual Property Rights are (intellectual property) rights, including but not limited to copyrights, database rights, domain names, trade name rights, trademarks, design rights, neighbouring rights, patent rights, and rights to know-how.

13.2. All Intellectual Property Rights to all software made available pursuant to the Agreement and ADchieve, as well as all corresponding preparatory materials, are vested solely with the Contractor or its licensors. The Client only obtains a right of use (for example for the management of online CPC campaigns in AdWords) with respect to ADchieve, which right will not be exclusive and transferable, and the powers explicitly assigned by these conditions or otherwise. The Client will not copy ADchieve or other materials in all other respects.

13.3. The Client will obtain a non-exclusive, non-transferable, and non-sublicensable right to use the Service for the duration of the Agreement and in accordance with the conditions set out in the Agreement.

13.4. The Contractor is allowed to take technical measures to secure the ADchieve software.



Article 14. Confidentiality

14.1. The Parties will treat all confidential information they share with each other before, during, or after the implementation of the Agreement in a confidential manner. Confidential information concerns all information labelled as confidential or which has been explicitly designated as confidential by one of the Parties to its provision.

14.2. The Parties will not use any received confidential information for any other purpose than the implementation of the Agreement.

14.3. The confidentiality obligation does not apply to confidential information which:

- a. is or becomes public without the recipient violating its duty of confidentiality;
- b. is provided to a third party by the recipient in a legitimate manner without a duty of confidentiality;
- c. was already demonstrably legitimately in the possession of the recipient prior to its receipt;
- d. has been labelled as non-confidential by the other party in a written document;
- e. the recipient shares with a third party based on a statutory obligation.

14.4. The obligations concerning confidentiality will remain in force after the termination of the Agreement on any grounds for as long as the Party which provides the information can reasonably claim the confidential nature of this information.

Article 15. Amendments to the Agreement

15.1. The Contractor has the right to modify the software of ADchieve at any time in order to improve its features and resolve any errors. Because ADchieve is provided to several Clients, it is not possible to refrain from making a change exclusively for the Client. The Contractor is not required to pay any form of compensation for damage caused by changes to ADchieve.

15.2. The Contractor has the right to unilaterally amend or supplement the Agreement and the associated General Terms and Conditions.

15.3. Amendments will also apply to any Agreements that have already been concluded. An amendment will take effect 30 days following the publication of the amendment by electronic newsletter sent through the website of the Contractor or by letter. Minor amendments may be made at any time.

15.4. If the Client does not want to accept the amendment, the Client must inform the Contractor of this within 30 days of the publication of the amendment. The Parties will first try to reach a solution in reasonable and sound consultation. If this is unsuccessful, the Client may terminate the Agreement with effect from the effective date of the amendment.

Article 16. Final provisions

16.1. The applicability of any purchase or other conditions suggested by the Client is expressly rejected.

16.2. The Contractor has the right to use the name and logo of the Client as a reference in (online) publications.

16.3. The version of the communication received or saved by the Contractor, including any conducted measurements, serve as proof thereof, subject to proof to the contrary submitted by the Client.

16.4. The Agreement is governed by the laws of the Netherlands.

16.5. To the extent not otherwise required by mandatory law, all disputes which may arise from this Agreement will be submitted to the Dutch court competent in the district where the Contractor is established.

16.6. If a provision of this Agreement and/or the General Terms and Condition is found to be invalid, the validity of the Agreement/General Terms and Conditions as a whole will not be affected. The Parties will decide on (a) new provision(s) as a replacement, which implements the intent of the original provision insofar as legally possible.

16.7. The Contractor has the right to transfer its rights and obligations arising from the Agreement to a parent company, subsidiary, or sister company, and any parties which wish to acquire or merge with the company of the Contractor.

