

# General terms & conditions of &moss

## TABLE OF CONTENT

ARTICLE 1 – DEFINITIONS .....	2
ARTICLE 2 – IDENTITY OF THE ENTREPRENEUR.....	3
ARTICLE 3 – APPLICABILITY .....	3
ARTICLE 4 – THE OFFER .....	4
ARTICLE 5 – THE AGREEMENT .....	4
ARTICLE 6 – RIGHT OF WITHDRAWAL.....	5
For products: .....	5
For services and digital content not supplied on a tangible medium: .....	6
Extended cooling-off period for products, services and digital content .....	6
ARTICLE 7 – OBLIGATIONS OF THE CONSUMER DURING THE COOLING-OFF PERIOD .....	6
ARTICLE 8 – EXERCISE OF THE CONSUMER’S RIGHT OF WITHDRAWAL AND THE COSTS THEREOF.....	7
ARTICLE 9 – OBLIGATIONS OF THE ENTREPRENEUR IN CASE OF WITHDRAWAL.....	8
ARTICLE 10 – EXCLUSION OF THE RIGHT OF WITHDRAWAL.....	9
ARTICLE 11 – THE PRICE .....	9
ARTICLE 12 – COMPLIANCE WITH THE AGREEMENT AND WARRANTY.....	10
ARTICLE 13 – DELIVERY AND EXECUTION.....	11
ARTICLE 14 – LONG-TERM CONTRACTS: DURATION, TERMINATION AND EXTENSION.....	12
Termination: .....	12
Extension: .....	12
Duration:.....	12
ARTICLE 15 – PAYMENT .....	13
ARTICLE 16 – COMPLAINTS PROCEDURE.....	13
ARTICLE 17 – DISPUTES .....	14
ARTICLE 18 – ADDITIONAL OR DEVIATING PROVISIONS.....	14

**Please note:** This is a translation of the Dutch General Terms and Conditions of &moss. In case of contradictions or ambiguities, the Dutch version is leading.

## ARTICLE 1 – DEFINITIONS

In these terms and conditions, the following definitions apply:

1. **Additional agreement:** an agreement whereby the consumer acquires products, digital content and/or services in connection with a distance contract and these goods, digital content and/or services are supplied by the entrepreneur or by a third party on the basis of an agreement between that third party and the entrepreneur;
2. **Cooling-off period:** the period during which the consumer may exercise his right of withdrawal;
3. **Consumer:** the natural person who does not act for purposes relating to his trade, business, craft or profession;
4. **Day:** calendar day;
5. **Digital content:** data that is produced and supplied in digital form;
6. **Long-term contract:** a contract for the regular delivery of goods, services and/or digital content for a certain period of time;
7. **Durable medium:** any tool, including email, that enables the consumer or entrepreneur to store information addressed to him personally in a way that allows future consultation or use for a period of time tailored to the purpose for which the information is intended, and which allows unchanged reproduction of the stored information;
8. **Right of withdrawal:** the consumer's option to withdraw from the distance contract during the cooling-off period;
9. **Entrepreneur:** the natural or legal person who offers products, (access to) digital content and/or services to consumers at a distance;
10. **Remote agreement:** a contract concluded between the entrepreneur and the consumer in the context of an organized system for distance selling of products, digital content and/or services, whereby up to and including the conclusion of the contract, exclusive or simultaneous use is made of one or more techniques for remote communication;
11. **Off-premises contract:** a contract concluded between the entrepreneur and the consumer in person outside the entrepreneur's fixed place of business;
12. **On-premises contract:** a contract concluded between the entrepreneur and the consumer in person within the entrepreneur's fixed sales location;

13. **Model withdrawal form:** the European model withdrawal form included in Annex I to these terms and conditions;
14. **Technique for communication at a distance:** means that can be used to conclude a contract without the consumer and entrepreneur having to be together in the same space at the same time.

## ARTICLE 2 – IDENTITY OF THE ENTREPRENEUR

**Name of the entrepreneur:** &moss B.V.

**Address of establishment and visitation:** Pascalweg 17, 8071 SE Nunspeet, The Netherlands

**Telephone number:** +31 (0)341 250 204, available from Monday to Friday from 10:00 am to 5:00 pm (GMT+1)

**E-mail address:** info@nmoss.com

**Chamber of Commerce number:** 76603598

**VAT identification number:** NL860697174B01

## ARTICLE 3 – APPLICABILITY

**3.1** These general terms and conditions apply to every offer made by the entrepreneur and to every remote agreement concluded between the entrepreneur and the consumer.

**3.2** Before the remote agreement is concluded, the text of these general terms and conditions is made available to the consumer. If this is not reasonably possible, the entrepreneur shall indicate, before the remote agreement is concluded, in what way the general terms and conditions can be viewed and that they will be sent free of charge upon request by the consumer as soon as possible.

**3.3** If the remote agreement is concluded electronically, in deviation from the previous paragraph and before the remote agreement is concluded, the text of these general terms and conditions can be made available to the consumer by electronic means in such a way that the consumer can easily store it on a durable medium. If this is not reasonably possible, before the remote agreement is concluded, it will be indicated where the general terms and conditions can be accessed electronically and that they will be sent to the consumer free of charge by electronic means or otherwise upon request.

**3.4** In the event that specific product or service conditions are also applicable in addition to these general terms and conditions, the second and third paragraphs shall apply mutatis mutandis, and the consumer may always rely on the provision that is most favorable to him in the event of conflicting conditions.

## ARTICLE 4 – THE OFFER

**4.1** If an offer has a limited validity period or is subject to conditions, this will be explicitly stated in the offer.

**4.2** The offer contains a complete and accurate description of the products, digital content and/or services offered. The description is sufficiently detailed to enable the consumer to make a proper assessment of the offer. If the entrepreneur uses images, these are a true representation of the products, services and/or digital content offered. Obvious mistakes or errors in the offer do not bind the entrepreneur.

**4.3** Each offer contains such information that it is clear to the consumer what the rights and obligations are that are attached to the acceptance of the offer.

## ARTICLE 5 – THE AGREEMENT

**5.1** The agreement, subject to the provisions of section 4, is concluded at the moment of acceptance by the consumer of the offer and fulfillment of the conditions attached thereto.

**5.2** If the consumer has accepted the offer by electronic means, the entrepreneur shall confirm receipt of acceptance of the offer by electronic means without delay. As long as the receipt of this acceptance has not been confirmed by the entrepreneur, the consumer may dissolve the agreement.

**5.3** If the agreement is concluded electronically, the entrepreneur shall take appropriate technical and organizational measures to secure the electronic transfer of data and shall ensure a secure web environment. If the consumer can pay electronically, the entrepreneur shall take appropriate security measures to that end.

**5.4** Within the framework of the law, the entrepreneur may ascertain whether the consumer is able to meet his payment obligations, as well as all those facts and factors that are relevant to a responsible remote agreement. If, based on this investigation, the entrepreneur has good grounds not to enter into the agreement, he is entitled to refuse a request or application or to attach special conditions to its execution, with reasons given.

**5.5** The entrepreneur shall provide the following information in writing or in such a way that the consumer can store it in an accessible manner on a durable medium, at the latest upon delivery of the product, service or digital content to the consumer:

- a. the address of the entrepreneur's establishment where the consumer can address complaints;
- b. the conditions under which and the manner in which the consumer may exercise his right of withdrawal, or a clear statement regarding the exclusion of the right of withdrawal;
- c. information about guarantees and after-sales services;
- d. the price including all taxes of the product, service or digital content; if applicable, the costs of delivery; and the method of payment, delivery or performance of the distance agreement;
- e. the requirements for termination of the agreement if the agreement has a duration of more than one year or is of indefinite duration;
- f. if the consumer has a right of withdrawal, the model withdrawal form.

**5.6** In the case of a continuing performance contract, the provision in the previous paragraph shall apply only to the first delivery.

## ARTICLE 6 – RIGHT OF WITHDRAWAL

For products:

**6.1** The consumer has the right to dissolve a remote or off-premises contract regarding the purchase of a product within a reflection period of 14 days without giving any reason. The entrepreneur may ask the consumer for the reason of withdrawal, but cannot oblige them to provide this information.

**6.2** The consumer cannot dissolve an on-premises contract regarding the purchase of a product.

**6.3** The reflection period mentioned in paragraph 1 commences on the day after the consumer, or a third party designated by the consumer, who is not the carrier, has received the product, or:

- a. if the consumer has ordered several products in the same order: the day on which the consumer, or a third party designated by the consumer, has received the last product. The entrepreneur may refuse an order for several products with different delivery times, provided that he has informed the consumer of this in a clear manner prior to the ordering process.

- b. if the delivery of a product consists of multiple shipments or parts: the day on which the consumer, or a third party designated by the consumer, has received the last shipment or part;
- c. for contracts for regular delivery of products during a certain period: the day on which the consumer, or a third party designated by the consumer, has received the first product.

For services and digital content not supplied on a tangible medium:

**6.4** The consumer may terminate a service agreement and an agreement for the supply of digital content not supplied on a tangible medium without giving any reason for 14 days. The entrepreneur may ask the consumer for the reason for the withdrawal, but cannot oblige the consumer to provide this information.

**6.5** The cooling-off period referred to in paragraph 4 shall commence on the day following the conclusion of the agreement.

Extended cooling-off period for products, services and digital content not supplied on a tangible medium when failing to provide information about the right of withdrawal:

**6.6** If the entrepreneur has not provided the consumer with the legally required information on the right of withdrawal or the model withdrawal form, the cooling-off period shall expire twelve months after the end of the original cooling-off period established in accordance with the previous paragraphs of this article.

**6.7** If the entrepreneur has provided the information referred to in the preceding paragraph to the consumer within twelve months after the start of the original cooling-off period, the cooling-off period shall expire 14 days after the day on which the consumer receives that information.

## ARTICLE 7 – OBLIGATIONS OF THE CONSUMER DURING THE COOLING-OFF PERIOD

**7.1** During the cooling-off period, the consumer shall handle the product and packaging with care. He shall only unpack or use the product to the extent necessary to establish the nature, characteristics, and functioning of the product. The starting point is that the consumer may only handle and inspect the product as he would be allowed to do in a shop.

**7.2** The consumer shall only be liable for any decrease in value of the product that is the result of handling the product beyond what is permitted under paragraph 1.

**7.3** The consumer shall not be liable for any decrease in value of the product if the trader has not provided him with all the legally required information about the right of withdrawal before or at the conclusion of the agreement.

## **ARTICLE 8 – EXERCISE OF THE CONSUMER'S RIGHT OF WITHDRAWAL AND THE COSTS THEREOF**

**8.1** If the consumer exercises his right of withdrawal, he shall notify the entrepreneur within the cooling-off period by means of the model withdrawal form or in another unambiguous manner.

**8.2** The consumer shall return the product as soon as possible, but no later than 14 days after the day following the notification referred to in paragraph 1, or he shall hand it over to the entrepreneur or to a person authorized by the entrepreneur. This is not necessary if the entrepreneur has offered to collect the product himself. The consumer shall have observed the return period in any event if he returns the product before the cooling-off period has expired.

**8.3** The consumer shall return the product with all accessories supplied, if reasonably possible in its original condition and packaging, and in accordance with the reasonable and clear instructions provided by the entrepreneur.

**8.4** The risk and burden of proof for the correct and timely exercise of the right of withdrawal lies with the consumer.

**8.5** The consumer shall bear the direct costs of returning the product. If the entrepreneur has not notified the consumer that he must bear these costs, or if the entrepreneur has indicated that he will bear the costs himself, the consumer shall not be required to bear the costs of returning the product.

**8.6** If the consumer withdraws after having explicitly requested that the service be commenced during the cooling-off period, the consumer shall owe the entrepreneur an amount that is proportionate to that part of the obligation that has been fulfilled by the entrepreneur at the time of withdrawal compared to the full performance of the obligation.

**8.7** The consumer shall not bear the costs for the performance of services that have not been made ready for sale in a limited volume or quantity, if:

- a. the entrepreneur has not provided the consumer with the legally required information about the right of withdrawal, the reimbursement of costs in case of withdrawal, or the model withdrawal form, or;
- b. the consumer has not expressly requested the start of the performance of the service during the cooling-off period.

**8.8** The consumer shall not bear the costs for the full or partial delivery of digital content not supplied on a tangible medium, if:

- a. he has not expressly agreed to the commencement of the performance of the contract before the end of the cooling-off period;
- b. he has not acknowledged that he will lose his right of withdrawal upon giving his consent, or;
- c. the entrepreneur has failed to confirm this statement by the consumer.

**8.9** If the consumer exercises his right of withdrawal, all supplementary agreements shall be dissolved by operation of law.

## ARTICLE 9 – OBLIGATIONS OF THE ENTREPRENEUR IN CASE OF WITHDRAWAL

**9.1** If the entrepreneur allows the consumer to report the withdrawal electronically, he will send an acknowledgement of receipt immediately upon receipt of this notification.

**9.2** The entrepreneur shall reimburse all payments made by the consumer, including any delivery costs charged by the entrepreneur for the returned product, immediately but no later than 14 days following the day on which the consumer notified him of the withdrawal. Unless the entrepreneur offers to collect the product himself, he may delay the reimbursement until he has received the product or until the consumer proves that he has returned the product, whichever is earlier.

**9.3** The entrepreneur shall use the same means of payment that the consumer used for the reimbursement, unless the consumer agrees to a different method. The reimbursement is free of charge for the consumer.

**9.4** If the consumer has chosen a more expensive method of delivery than the cheapest standard delivery, the entrepreneur is not obliged to reimburse the additional costs for the more expensive method.



## ARTICLE 10 – EXCLUSION OF THE RIGHT OF WITHDRAWAL

The entrepreneur can exclude the following products and services from the right of withdrawal, but only if the entrepreneur has clearly stated this in the offer or at least in a timely manner before concluding the agreement:

**10.1** Products or services whose price is tied to fluctuations in the financial market that are beyond the control of the entrepreneur and that may occur within the withdrawal period;

**10.2** Agreements concluded during a public auction. A public auction means a method of sale whereby products, digital content, and/or services are offered by the entrepreneur to the consumer who is personally present or has the opportunity to be personally present at the auction, under the supervision of an auctioneer, and whereby the successful bidder is obliged to take the products, digital content, and/or services;

**10.3** Service contracts, after full performance of the service, but only if:

- a. performance has begun with the consumer's express prior consent; and
- b. the consumer has declared that he/she loses his/her right of withdrawal as soon as the entrepreneur has fully performed the agreement;

**10.4** Products that are made to the consumer's specifications, which are not prefabricated and which are made on the basis of an individual choice or decision of the consumer, or which are clearly intended for a specific person;

**10.5** Products that spoil quickly or have a limited shelf life;

**10.6** Sealed products that are not suitable for return for reasons of health protection or hygiene and whose seal has been broken after delivery;

**10.7** Products that, by their nature, are irrevocably mixed with other products after delivery;

**10.8** The supply of digital content that is not supplied on a tangible medium, but only if:

- a. performance has begun with the consumer's express prior consent; and
- b. the consumer has declared that he/she loses his/her right of withdrawal.

## ARTICLE 11 – THE PRICE

**11.1** During the validity period mentioned in the offer, the prices of the products and/or services offered will not be increased, except for price changes resulting from changes in VAT rates.

**11.2** Notwithstanding the previous paragraph, the entrepreneur may offer products or services with variable prices that are subject to fluctuations in the financial market and over which the entrepreneur has no control. The offer will state the possibility of fluctuations and the fact that any prices mentioned are guide prices.

**11.3** Price increases within 3 months after the conclusion of the agreement are only allowed if they result from legal regulations or provisions.

**11.4** Price increases from 3 months after the conclusion of the agreement are only allowed if the entrepreneur has stipulated this and:

- a. they result from legal regulations or provisions; or
- b. the consumer has the right to terminate the agreement from the day on which the price increase takes effect.

**11.5** The prices of the products or services mentioned in the offer are in euros (€) and inclusive of 21% VAT unless states otherwise.

## **ARTICLE 12 – COMPLIANCE WITH THE AGREEMENT AND WARRANTY**

**12.1** The entrepreneur guarantees that the products and/or services comply with the agreement, the specifications stated in the offer, the reasonable requirements of soundness and/or usability, and the legal provisions and/or government regulations that exist on the date of the conclusion of the agreement. If agreed, the entrepreneur also guarantees that the product is suitable for use other than normal use.

**12.2** The consumer must inspect the products for any errors, damages, or defects upon delivery. In case of defects, the consumer must inform the entrepreneur of this within 48 hours.

**12.3** The entrepreneur guarantees the quality of the delivered products for two years. This means that defects or malfunctions in the product that occur within 2 years after delivery will be repaired or replaced free of charge. The warranty will expire if:

- The delivered product has been damaged intentionally or through negligence.
- The delivered product has been used improperly or not maintained properly.
- The delivered product shows normal wear and tear.
- The delivered product has been damaged due to non-compliance or incorrect compliance with the instructions for use that were provided with the product.
- Structural changes have been made to the delivered product by the consumer or a third party.

**12.4** The consumer, where possible and reasonable, has the choice of repair or replacement. Only in case repair or replacement is excessive or impossible or cannot be carried out within a reasonable time, the consumer has the right to demand a reduction of the price or dissolution of the sales agreement.

## ARTICLE 13 – DELIVERY AND EXECUTION

**13.1** The entrepreneur shall exercise the greatest possible care in receiving and executing orders for products and in assessing requests for the provision of services.

**13.2** The place of delivery shall be the address that the consumer has provided to the entrepreneur.

**13.3** Subject to the provisions of Article 4 of these general terms and conditions, the entrepreneur shall execute accepted orders promptly and within 30 days at the latest, unless a different delivery period has been agreed. If delivery is delayed or if an order cannot be executed or only partially executed, the consumer shall be informed of this no later than 30 days after placing the order.

**13.4** In the event of dissolution in accordance with the previous paragraph, the entrepreneur shall promptly refund the amount paid by the consumer.

**13.5** The risk of damage and/or loss of products shall be borne by the entrepreneur until the moment of delivery to the consumer or a representative designated and made known to the entrepreneur in advance, unless expressly agreed otherwise.

## ARTICLE 14 – LONG-TERM CONTRACTS: DURATION, TERMINATION AND EXTENSION

### Termination:

**14.1** The consumer may terminate an agreement that has been concluded for an indefinite period and that provides for the regular delivery of products or services at any time, subject to the agreed termination rules and a notice period of one month.

**14.2** The consumer may terminate an agreement that has been concluded for a definite period and that provides for the regular delivery of products or services at any time towards the end of the fixed term, subject to the agreed termination rules and a notice period of one month.

**14.3** The consumer may terminate the agreements mentioned in the previous paragraphs:

- a. at any time and shall not be limited to termination at a particular time or during a particular period;
- b. terminate in the same way as they were entered into;
- c. always terminate with the same notice period as the entrepreneur has stipulated for itself.

### Extension:

**14.4** An agreement that has been concluded for a definite period and that provides for the regular delivery of products or services may not be tacitly extended or renewed for a specified duration.

**14.5** An agreement that has been concluded for a definite period and that provides for the regular delivery of products or services may only be tacitly extended for an indefinite period if the consumer may terminate at any time with a notice period of one month.

### Duration:

**14.6** If an agreement has a duration of more than one year, the consumer may terminate the agreement at any time with a notice period of one month after one year, unless reasonableness and fairness oppose termination before the end of the agreed duration.

## ARTICLE 15 – PAYMENT

**15.1** Unless otherwise agreed in the contract or additional conditions, the amounts owed by the consumer must be paid within 14 days after the start of the cooling-off period, or in the absence of a cooling-off period, within 14 days after the conclusion of the contract. In the case of a contract for the provision of a service, this period starts on the day after the consumer has received confirmation of the contract.

**15.2** In the sale of products to consumers, the consumer shall never be obliged to make a payment in advance of more than 50% in the general terms and conditions. If payment in advance has been agreed, the consumer shall not be entitled to any rights regarding the execution of the relevant order or service(s) until the agreed payment in advance has been made.

**15.3** The consumer has an obligation to immediately report any inaccuracies in provided or stated payment details to the entrepreneur.

**15.4** If the consumer fails to meet his payment obligations in a timely manner, he shall owe statutory interest on the outstanding amount and the entrepreneur is entitled to charge the consumer with extrajudicial collection costs, after the entrepreneur has notified the consumer of the late payment and the consumer has been given a period of 14 days to meet his payment obligations. These collection costs amount to: 15% on outstanding amounts up to € 2,500; 10% on the subsequent € 2,500 and 5% on the following € 5,000, with a minimum of € 40. The entrepreneur may deviate from these amounts and percentages to the advantage of the consumer.

## ARTICLE 16 – COMPLAINTS PROCEDURE

**16.1** The entrepreneur has a sufficiently publicized complaints procedure and handles the complaint in accordance with this complaints procedure.

**16.2** Complaints about the performance of the agreement must be fully and clearly described and submitted to the entrepreneur within a reasonable time after the consumer has discovered the defects.

**16.3** Complaints submitted to the entrepreneur will be answered within a period of 14 days from the date of receipt. If a complaint requires a foreseeable longer processing time, the entrepreneur will respond within the 14-day period with a message of receipt and an indication of when the consumer can expect a more detailed answer.

16.4 The consumer must allow the entrepreneur at least 4 weeks to resolve the complaint through mutual consultation. After this period, a dispute arises that is subject to the dispute settlement procedure.

## ARTICLE 17 – DISPUTES

Dutch law applies exclusively to agreements between the entrepreneur and the consumer to which these general terms and conditions apply.

## ARTICLE 18 – ADDITIONAL OR DEVIATING PROVISIONS

Additional or deviating provisions than these general terms and conditions may not be to the detriment of the consumer and must be recorded in writing or in such a way that the consumer can store them in an accessible manner on a durable data carrier.