



Terms and Conditions

These are the General Terms and Conditions of **OmniVersal**, with
registered office at 1209 MOUNTAIN ROAD PL NE
ALBUQUERQUE, NM 87110, business number EIN: 98-1878875

Article 1 General

1. These general terms and conditions apply to all offers, quotes and agreements between the 'Customer', hereinafter referred to as the client, and **OmniVersal**, for which **OmniVersal** has declared these conditions to be applicable, insofar as the parties have not deviated from these conditions explicitly and in writing.
2. These general terms and conditions supersede all previous versions and apply to all quotes, offers and contracts from/with **OmniVersal** and the client.
3. These general terms and conditions are also set forth for the employees of the client and the corresponding managers.
4. If, between the parties, a situation occurs that is not governed by these general terms and conditions, this situation must be assessed according to the spirit of the terms and conditions.

Article 2 Quotes and offers

1. All quotes and offers by **OmniVersal** are without obligation, until the point at which they are accepted by the client. Acceptance is realised when the client signs the 'cooperation agreement'. 'The cooperation agreement' shall become an effective contract upon signing and thus supersedes all previous agreements, both verbal and written.

2. **OmniVersal** may not be held to its quotes or offers if the client could reasonably have been expected to realise that the quotes or offers, or elements thereof, clearly contained an error or oversight.
3. The prices set forth within 'the cooperation agreement' are exclusive of VAT and other statutory levies and costs that may be incurred in the context of the agreement, including travel and accommodation, postage and administration costs, unless stated otherwise.
4. A pricing overview does not oblige **OmniVersal** to carry out a part of the task for a corresponding percentage of the price given. Offers or quotes do not automatically apply to future orders.

Article 3 Contract duration, lead times, execution and modification of agreement

1. The agreement between the client and **OmniVersal** is entered into for the duration specified in the collaborative agreement unless the nature of the agreement leads to this changing or parties agree otherwise explicitly and in writing.
2. The date of delivery is only provided as an indication and is not binding for **OmniVersal**. Delivery delays shall not entitle the client to compensation of damages or a reduction in the price, nor to annulment of the agreement.
3. If **OmniVersal** requires data (information, documents,

originals, images, log-ins, etc.) from the client for the execution of the agreement, the execution period shall not commence until the client has provided the data correctly and entirely to **OmniVersal**, and this within 5 working days.

4. **OmniVersal** may outsource certain tasks to third parties.

5. **OmniVersal** may execute the agreement in various phases and invoice the corresponding phases individually.

Article 4 Suspension, dissolution and interim termination of the agreement

1. **OmniVersal** is entitled to suspend the obligations of the agreement or dissolve the contract, if:

2. The client is guilty of a major contractual failing and this is not rectified by the client within 8 days after receipt of a notice of default, by post. In this event, **OmniVersal** retains the right to suspend the agreement until the client has fulfilled the relevant obligations, or terminate the agreement immediately.

3. The non-payment of one or more invoices by the due date shall always be regarded as a major contractual failing.

4. Upon termination of the agreement, the client shall pay for all of the services provided by **OmniVersal**, as well as costs that have been incurred by **OmniVersal** as a result of this termination, increased by a fixed fee of xx% of the amount that **OmniVersal**

could have invoiced to the client if the agreement had been executed in full.

5. Nevertheless, each party shall provide the other party with a reasonable period to resolve any shortcomings and to initially seek an amicable arrangement.

6. The agreement can be terminated at all times by mail or in writing, one month prior to the end of the ongoing contract. Without this termination, the contract shall be tacitly extended by one month.

7. On the occasion of any extension (tacit or written update to the agreement), the **OmniVersal** may elaborate new conditions and include these in the new agreement. **OmniVersal** is obliged to notify the client of this.

8. Projects that are put 'on hold' by either the **OmniVersal** or the client shall not lead to suspension of payments.

9. If the Other party entirely or partially cancels an order, the ordered or prepared items, plus any transport and delivery costs incurred and the labour time reserved for the execution thereof, shall be fully invoiced to the Other party.

Article 5 Force majeure

1. **OmniVersal** cannot be held liable for shortcomings in the execution of the agreement that are attributable to force majeure.
2. Force majeure, in these terms and conditions, is regarded as: all external forces, foreseen or unforeseen, upon which **OmniVersal** can exercise no influence and as a result of which **OmniVersal** is not able to fulfil its obligations.
3. This includes erroneous or non-compliance with the agreement by third parties or the client themselves.
4. **OmniVersal** may suspend its obligations arising out of the agreement for the duration of the force majeure. If this period extends for longer than two months, each of the parties may dissolve the agreement without any obligation to provide damages to the other party.

Article 6 Payment and debt-collection costs

1. Unless agreed otherwise, payment must be made within 30 days of the invoice date, (by means of a method set forth by **OmniVersal**), unless indicated otherwise by the client.
OmniVersal is entitled to invoice periodically.
2. All invoices must be paid by the due date by bank transfer to **OmniVersal**.

3. Every payment will be offset against the oldest outstanding invoice, and first against any interest and costs owed. Permitted discounts shall be cancelled if the general terms and conditions are not respected.

4. Payment to third parties, such as: paid registrations, registration of domain names, visitor statistics, hosting, click budgets, media budgets, conversion fees, etc. shall be fully invoiced to the client unless it has been agreed that these costs shall be charged directly to the third party supplier.

5. **OmniVersal** must be notified of any disputes within seven working days of sending an invoice (by registered post). A dispute cannot lead to a delay or the suspension of payments.

6. If the client remains in default with regard to prompt payment of an invoice, the client shall be considered to be legally defaulting.

The client shall then owe interest of 10% per month unless the statutory interest rate is higher, in which case the statutory interest shall become due. The interest on the amount due shall be calculated from the moment that the client defaults to the point at which the outstanding amount is paid in full.

7. If the client does not pay within 8 days of receipt of a registered notice of default from **OmniVersal**, the client shall owe default interest set at the basic rate set forth in Art. 5 of act of 2 August 2002 tackling late payment in relation to commercial transactions.

8. All reasonable extra-legal costs incurred in the pursuit of payment shall be owed by the client. The extra-legal costs will be

calculated on the basis of the usual, Belgian debt-collection practices. If **OmniVersal**, however, has incurred higher costs for the collection than were reasonable, the actually incurred costs for the claim shall be eligible. Any legal and enforcement costs will also be recovered from the client. The client shall also owe interest on the legal and execution costs.

Article 7 Retention of title

1. All of the items supplied by **OmniVersal**, in the context of the agreement, remain the property of **OmniVersal** until the client has correctly fulfilled all of its obligations from the agreement(s) made with the **OmniVersal**.
2. Items supplied by **OmniVersal** which, pursuant to section 1 fall under retention of title, may not be sold on or used as a method of payment.

Article 8 Liability

1. In the event that **OmniVersal** is liable, this liability is limited to what has been specified in this section.
2. **OmniVersal** is not liable for any damage, of any nature, created

as a result of **OmniVersal** making assumptions on the basis of incorrect and/or incomplete data supplied by or on behalf of the client.

3. **OmniVersal** cannot be held liable for damage to third parties, of any nature, caused by the client, which arise as a result of the usage (unlawful or otherwise) of its products or services.

4. **OmniVersal** cannot be held liable for damage caused by the client or by third parties (e.g. hosting, Affiliate sites, Google, etc.).

5. **OmniVersal** is not liable for any indirect or incidental damage or loss of income that the client may suffer as a result of the supply of services during the agreement period.

6. If **OmniVersal** is found to be liable for any damage, the liability of **OmniVersal** shall be limited to a maximum of the total value of the agreement at hand.

7. **OmniVersal** is exclusively liable for direct damage or gross negligence in the execution of the agreement.

8. **OmniVersal** offers no guarantee of success, potential success or profit and cannot be held liable for non-achievement of the results.

This is due to the fact that the results are heavily influenced by external factors, both online and offline, over which **OmniVersal** has no control. For example: actions by the client, as well as third parties such as Google, Yahoo, Affiliate sites, etc. Moreover, the client acknowledges the online competition level or random nature of search engines as determining factors on results.

9. In order to achieve the targets set in the agreement,

OmniVersal shall depend, for certain aspects, on the services and software of other parties. Media budgets that are set in advance by **OmniVersal** are only indicative and could vary from the amounts that are invoiced by third parties. In the event of varying amounts, the invoices of the relevant third parties in question shall serve as actual amounts and/or quantities.

Article 9 Intellectual property

1. The term ‘intellectual property’ is understood to mean: all intellectual, industrial and other property rights (irrespective of whether these are registered), including but not limited to, copyright, related rights, brands, trading names, logos, drawings, models or requests to register drawings or models, patents, patent applications, domain names, ‘know-how’, as well as rights to databases, computer programmes, etc.
2. The client guarantees and indemnifies **OmniVersal** in terms of the accuracy and completeness of all material and information, no matter the form, that in the context of the execution of the agreement is made available by **OmniVersal**. The client also guarantees that the use of this material and information shall not constitute a breach of national or international legislation, or the rights of third parties and indemnifies **OmniVersal** against any possible claims from third parties with respect to this material or

information.

3. In the event of any revisions (or amendments) by the client (or third parties) to the website (or the tools) where **OmniVersal** supplies its services, the client shall notify **OmniVersal** immediately.

4. The client accepts and acknowledges that the practices and services of **OmniVersal** could be severely influenced and/or hindered as a result of modifications about which **OmniVersal** was not notified in advance.

5. **OmniVersal** cannot be held liable for the consequences of complete or partial shortcomings by the client in terms of obligations, set forth under article 2.

Article 10 Applicable law – competent court

1. All of the legal relationships to which **OmniVersal** is party, shall be subject exclusively to Belgian law , even if an obligation is fulfilled entirely or partially abroad or if the party involved in the legal relationship is a resident of another country.

2. Parties shall only approach the court once they have exhausted all possibilities for resolving the dispute between themselves.