

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions apply to all relationships between Datling and you and to all Datling's legal acts and your use of Datling's Services, such as Data Outlet, Data Outlet X, API, Salesmapp and Market Monitor.

DEFINITIONS

Agreement:	The Agreement between Customer and Datling regarding our Services, including the order, specific provisions and conditions, the corresponding annexes and these General Terms and Conditions.
Customer/you:	The company(y)(ies) or (legal) entit(y)(ies) with whom Datling enters the Agreement for the provision of Services.
Datling/us/we:	Datling B.V. and/or its affiliates.
General Terms and Conditions:	These Datling General Terms and Conditions for the provision of Services, as applicable to the Agreement.
Services:	The (SaaS) services to be provided by Datling to you based on the Agreement, such as our website(s), Data Outlet X, Salesmapp and Market Monitor. Our Services are described in the Agreement.
User:	Employee of you or a third party engaged by Customer and/or affiliated with you, who, pursuant to the Agreement, has access to our Services and is authorized to use these Services.
User Credentials:	User credentials, such as username and password, to be able to log in into your account to use certain Services

ARTICLES

1. Scope of the General Terms and Conditions

- 1.1. These General Terms and Conditions apply to all legal acts of Datling and relationships between Datling and you including request, offers, orders, negotiations, and all agreements together with the annexes. These General Terms and Conditions also apply to your use of the Services.
- 1.2. All offers and quotes issued by us are free of obligations and may be withdrawn by us until the moment that the offer has been accepted by you.
- 1.3. Once these General Terms and Conditions apply to our relationship, they will also apply to each subsequent relationship, unless parties have expressly agreed otherwise in such a subsequent legal relationship.
- 1.4. The applicability of any of your terms and conditions is explicitly rejected by us.
- 1.5. If the Agreement contains provisions that conflict with these General Terms and Conditions, the provisions of the Agreement shall prevail.



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2. General

- 2.1. The Agreement comes into effect upon signing by both you and Datling and remains in force for the term agreed on. You agree to these General Terms and Conditions by signing the Agreement or by using/visiting (one of) our Services.
- 2.2. All our obligations towards you are to be regarded as best-effort obligations. We do not guarantee the result of the obligation(s) that we have fulfilled and/or will fulfil, but will do our best-efforts to fulfil these. We take appropriate measures to safeguard the continuity of our Services as a result of which we are ISO27001 certified.
- 2.3. We aim to provide the agreed Services punctually on the agreed date or within the agreed period. All dates of provision of Services agreed on are considered target dates. These dates, unless this has been confirmed in writing, cannot be construed as final deadlines as referred to in article 6:83 of the Dutch Civil Code.
- 2.4. For the term of the Agreement, we grant you a non-exclusive, non-transferable, and non-sublicensable right to use our Services.
- 2.5. We are entitled to engage third parties (service providers) to perform (elements of) our Services.
- 2.6. We are entitled to adopt technical measures during the term of the Agreement to protect the integrity of our Services and our content.
- 2.7. We are entitled to monitor your use of the Services and/or data. We may terminate or restrict your use of the Service without compensation or notice, if you are using, or if we suspect that your use of the Services is in violation of any obligation of the Agreement or these General Terms and Conditions or is illegal or improper.
- 2.8. Only one User per User Credentials that are provided to the Customer can be logged in (single User login) to use the Services. In order to monitor the integrity of our Services we log certain actions (such as adding or removing records, exporting data) including IP-address. This information is only available to our authorized professionals.

3. Changes

- 3.1. We are entitled to make changes to the Services we provided as long as such changes do not affect the functionality and quality of our Services or have any possible adverse effect upon you. We will not exercise this right without compelling reasons for doing so.
- 3.2. We will endeavour to notify you in good time of any changes as referred to in the preceding section.

4. Invoicing and payment

- 4.1. For the provision of our Services, you are obligated to pay us the (yearly) fee as agreed on in the Agreement. The fee for additional services will be invoiced separately. All rates are exclusive of VAT and



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other duties and levies. Fees shall be made out in Euro's, unless otherwise agreed in writing.

- 4.2. Unless agreed otherwise in writing, invoicing of the fee will take place after the signage of the Agreement. Subscriptions to the Services will be invoiced on a yearly basis, per calendar year in advance.
- 4.3. The annually calculated fee does not include the costs incurred by Datling in remedying defects caused by inexpert or irresponsible use, deliberate act or gross negligence on the part of the Customer or any third party or caused by force majeure.
- 4.4. You are obligated to pay the invoiced fee into the bank account as specified by us no later than 30 (thirty) days after the invoice date, without any deduction, discount or setoff. This payment term constitutes a final deadline. If you do not pay the fees you owe within the agreed period, you will be in default without any notices of default being required, in which case you will no longer be entitled to use the Service. You are only authorised to invoke suspension with respect to your obligation to pay the invoice where it concerns disputed services. As soon as the payment term has expired, you will owe us the following additional charges on the amount due, including VAT: statutory commercial interest (wettelijke handelsrente) arising from article 6:119a Dutch Civil Code on the amount due, (ii) compensation for out-of-court collection costs, which is set at a minimum of 15% of the amount due inclusive of VAT, with a minimum of €200. The above is without prejudice to our further legal and contractual rights, such as our right to full compensation.
- 4.5. You are entitled to object to the accuracy of an invoice in writing, specifying the objection, to be sent to us within five working days of receipt of the disputed invoice. Even if you dispute the accuracy of all or any part of the invoice, you must nevertheless still pay the disputed amount.
- 4.6. The payments you will make, will always first cover all interest due and costs owed to us and then cover the amounts due on invoices that have been outstanding the longest unless you state that a payment is intended for an invoice with a different date.
- 4.7. The fee charged shall be payable immediately if you file for bankruptcy or are declared bankrupt, request or are granted a (provisional) debt moratorium, are declared subject to a debt restructuring scheme under the Dutch Debt Restructuring for Natural Persons Act, all or part of your goods are seized, you die or your business is dissolved, you are placed under guardianship or put into administration, or if other circumstances come to light after entering into the Agreement that give us good grounds to fear that you will not be able to fulfil your obligations.
- 4.8. We shall at all times be authorised to require you to provide us security for the fulfilment of (payment) obligations. We shall at all times be authorised to suspend our obligations ensuing from the Agreement until you have provided the security required by us.
- 4.9. We are entitled to increase the agreed fee beginning on the second year anniversary of the signing of the Agreement. Datling has the right to apply a yearly correction to the current fee of 4% unless the percentage increase of the consumer price index (CPI) is in excess of this percentage. If the percentage increase in the CPI, year over year, is greater than the stated fixed percentage increase, then the applicable price will be adjusted by that greater percentage increase of the CPI. The CPI is published by Statistics Netherlands (Centraal Bureau voor de Statistiek). Any other increases of the price will be notified at least three months prior to being implemented and will be communicated in writing by Datling to you.

5. Our obligations

- 5.1. We will endeavour to provide our Services with proper skill and care in accordance with the provisions of the Agreement and to ensure that our Services do not infringe any third-party rights and are not in breach of any current laws and regulations.

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6. Customer obligations

- 6.1. You are not permitted to use the data and/or Services for any purpose other than for which they are intended and as described in these General Terms and Conditions and the Agreement unless we have given you our written permission to do so.
- 6.2. You are not permitted to do any of the following:
 - inclusion of our Services in paid services;
 - provide third parties with (a) any of the data you receive from Datling or (b) share your User Credentials without our written consent;
 - use the API's or the Data to offer any product or service that competes with the Service.
- 6.3. You are allowed to use our Services for customer or lead generation, marketing or sales research, store location planning, enriching or cleaning your own data.
- 6.4. You are obligated to render all reasonably required cooperation to us, to ensure correct and timely performance of the Agreement. You guarantee that you will use best efforts to make correct, complete, and reliable data available to us so we will be able to perform the Agreement.
- 6.5. We apply standards to your hard- and software to ensure optimal performance of our Services provided. Upon our request you will provide us information about relevant quality standards (e.g., latest supported iOS version on iPads). You are responsible for obtaining and maintaining any of your hardware, other equipment, and ancillary services, including proper internet connection, modern web browser, needed to connect to, access or otherwise use our Services.
- 6.6. You must take suitable technical and organisational measures with respect to the protection of your equipment, IT infrastructure, data and data communication connection(s) against viruses, malware, and similar threats. You also may not attempt to undermine the security and operations of our systems.
- 6.7. Your employees and any third party engaged by you must also comply with the provisions of the Agreement and the specific rules and regulations as referred to in this article.

7. Transfer of rights and obligations

- 7.1. You are not allowed to transfer any rights and obligations under the Agreement to any third party without our prior written consent. This clause has effect under property law pursuant to article 3:83, paragraph 2 of the Dutch Civil Code.
- 7.2. You give consent in advance to any future transfer by us of our rights and obligations under the Agreement to a third party. We will notify you in a timely manner in the event of such transfer.

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- 7.3. As an exception to the provisions of sections 1 and 2 of this article, either party may transfer its rights and obligations under the Agreement to a company within the same concern that assumes all or a substantial part of the transferor's activities in accordance with the Agreement. This transfer will be in effect upon signature of a written statement by the transferor and transferee. The transfer will not take effect until one month after the said statement has been sent to the other party.

8. Termination

- 8.1. If you and Datling have entered into a fixed-term Agreement, the Agreement cannot be terminated early by either party, unless specifically stated otherwise in the Agreement. Premature termination of a fixed-term Agreement does not entitle to a refund of part of the fee already paid.
- 8.2. If you and Datling have entered into an Agreement for an indefinite term, the Agreement can be terminated by sending the other party a written notice of termination observing a notice period of six (6) months.
- 8.3. A fixed-term Agreement as stated in article 8.1. shall be automatically renewed for successive periods of 12 months unless you terminated the Agreement by sending us a written notice no later than 6 months before the date of expiry of the term.
- 8.4. We are entitled to terminate the Agreement with immediate effect and without any notice of default when you materially breach the Agreement or these General Terms and Conditions, including a material non-performance of any of the obligations as stipulated herein and does not cure such breach within thirty (30) days after the day you receive our written notice of such breach, by way of sending you written notice of the termination.
- 8.5. Either party can terminate the Agreement with immediate effect and without any notice of default by sending the other party a written notice, if:
- a) the other party files for bankruptcy or is declared bankrupt;
 - b) the other party applies for or is granted a debt moratorium;
 - c) the other party enters a debt restructuring scheme under the Dutch Debt Restructuring for Natural Persons Act;
 - d) all or part of the other party's goods are seized and such seizure prevents that party's further performance under the Agreement;
 - e) the other party's business is dissolved;
 - f) the other party has been placed under guardianship or put into administration;
 - g) there is a change of control on the side of the other party;
 - h) after entering into the Agreement, a party becomes aware of other circumstances that give the party material ground to fear that the other party will not meet its obligations;
- all of the above is without prejudice to a party's right to claim compensation from the other party.
- 8.6. The termination of the Agreement does not release you from pre-existing obligations to pay any fees or other amounts due to us, nor does it entitle you to any refund of fees or other amounts paid under it. We are under no circumstances obliged to pay you any compensation because of termination.
- 8.7. The Agreement can only be terminated by a written notice.

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- 8.8. In the event of valid termination of the Agreement, all Users will be deactivated immediately. The Customer working environment including Customer's data and custom work will be deactivated for a period of maximum 6 months. Within this 6-month period, re-activation at Customer's request is possible. Subsequently, Customer information is archived and stored on a secured back-up location for a period of maximum 2 years.

9. Liability

- 9.1. You will use the Service, including the information and data provided, at your own expense and risk.
- 9.2. We do not guarantee that the Service meets your purposes or that our Services will not be interrupted or will be error free.
- 9.3. We do not guarantee the quality of the data processing outcomes of our Services and are not liable for any damages arising from the use of the data processing outcomes or decisions based on the data processing outcomes.
- 9.4. Our total liability in relation to an attributable failure in the performance of our Services is expressly limited to the amount covered by our liability insurance. If the insurance denies to pay out for whatever reason, our liability is limited to compensation for direct damage (as defined in article 6:96, paragraph 2 of the Dutch Civil Code) up to an amount of 50% of all amount's invoiced in the six (6) months prior to the event causing such damages, except in case of intent or recklessness on our part. Our total liability for direct damage, on any legal basis whatsoever, will never exceed EUR 10,000.00 (ten thousand euros). In all cases, a series of related events shall be considered as a single event for this limitation.
- 9.5. We are not liable for any other types of damage, such as, but not limited to, any indirect or consequential loss, lost revenue and/or profits, lost man hours, savings missed out on, reputational damage, reduced goodwill, loss of data and losses due to business interruption.
- 9.6. We are not liable for any damages, directly or indirectly, that are caused by our service providers as referred to in article 2.5. of these General Terms and Conditions and cannot be attributed to us.
- 9.7. A breach cannot be attributed to us if it is not to blame for the breach, it is outside our sphere of influence, it is not a risk that it bears or ought to bear, and it is not otherwise attributable by virtue of any law, juridical act or general presumption. This could be caused, for example, by a Distributed Denial of Service (DDoS) by means of:
- cracking, such as viruses and worms;
 - signalling, such as IRC, specific ICMPs via relays;
 - flooding, such as TCP SYN flood, UDP, ICMP, or other IP protocols.
- 9.8. In the event of a non-attributable breach, compliance with the relevant obligations and related obligations will be suspended in part or in full for the period of such breach, without thereby incurring either party in any obligation to pay compensation to the other. A party that relies on such a breach must notify the other party in writing of this fact as soon as possible.
- 9.9. All your rights of claim, such as rights to compensation, against us will in any event expire after one (1) year after the day on which the right of claim arose unless the claim(s) is or are brought before the competent court within this period.

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10. Force Majeure

- 10.1. We shall not be held to comply with our obligations arising from the Agreement, due to circumstances caused by force majeure or Acts of God. Force majeure is understood to mean, among other things: strikes, riots, ICT infrastructure disruptions, denial-of-service attacks, shortcomings, or delays in activities and/or deliveries by third parties, and other events causing us to be reasonably deemed unable to comply with our obligations.
- 10.2. If the situation of force majeure continues for a period of more than ninety (90) days, you will be entitled to terminate the Agreement by sending us a written notice the termination. In that case, anything already achieved on the basis of the Agreement, will be paid proportionately. In such case we shall not be liable and obligated to pay you any compensation for any reasons whatsoever.

11. Intellectual property rights

- 11.1. All our Services are protected by intellectual property rights, including copyright and trade secrets.
- 11.2. We or our subsidiaries are and will remain the owners of all our intellectual property rights, including our copyrights, (registered) trademarks, trade names, trade secrets, design rights and domain names, and applications for any of these rights, all in the broadest sense, on all items we make available to you as part of performance of the Agreement and the Service. These include intellectual property rights vested in the software, documentation, images, designs, processing, and models, all in the broadest sense. After the Agreement has ended, you are obligated to immediately return such documents and information to us on our first request.
- 11.3. If the performance of the Agreement involves the creation of any work that is protected by any intellectual property right, this intellectual property right will belong to us.
- 11.4. You are not allowed:
- a) to (in)directly reverse engineer, decompile, add disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the intellectual property rights, knowhow, any software, or data related to our Services;
 - b) to copy, create works, modify, translate, scrape, public, promote, market, integrate, rent, lease, distribute, pledge, assign, transfer, combine or otherwise use our intellectual property rights, know-how, any software, or data related to our Services without our prior written consent.
- 11.5. All intellectual property rights on your data are held by you. You agree to indemnify us against all third-party claims with respect to a possible infringement of intellectual property of third parties because of your data.
- 11.6. On entering into the Agreement, you will grant us a non-exclusive license to use all your data and intellectual property rights to perform the Agreement for your benefit.

12. Confidentiality

- 12.1. Parties warrant each other to not disclose the contents of this Agreement or any other information they obtain or learn, directly or indirectly, in the context of the conclusion or the performance of the Agreement which is known to be or can reasonably assumed to be confidential. Confidential information includes all information designated as confidential by either party and all other information which relates to the business activities, business process, affairs, customers, contracts, products, developments, trade secrets, intellectual property rights and knowhow.

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- 12.2. Parties are only allowed to use the confidential information for the purpose of the Agreement. The parties are entitled to make confidential information available to their employees or professional advisor and in our case to our sub-contractors, insofar as such is necessary, provided they ensure that these persons observe a similar level of confidentiality. This stipulation will remain applicable until two (2) years after the termination of the Agreement.
- 12.3. Neither party shall, without other's written consent, publicly make any references to the other party whether in press releases, sales literature, advertisements or otherwise, without prior written consent of the other party.
- 12.4. In case you violate this article or article 11. (Intellectual property rights) if these General Terms and Conditions, you will have to pay us a penalty of €10.000, - (in words: ten thousand Euro) per violation without any notice of default being required, without prejudice to our right to also claim full compensation plus interest and costs.

13. Data protection

- 13.1. With respect to (personal) data provided by the parties in the context of the Agreement, you are held to compliance with legal provisions on privacy protection and personal data protection, including but not limited to the General Data Protection Regulation (GDPR) 2016/679 (GDPR), the Dutch act implementing the General Data Protection Regulation, and other applicable laws and regulations on the protection of personal data as may be in effect at any time. As and when required under the GDPR, the parties shall enter into a data processing agreement.
- 13.2. We process personal data according to our privacy statement, which is available on our website.
- 13.3. Each party shall promptly inform the other party if:
- a) it receives an inquiry, a subpoena or a request for inspection or audit from a competent public authority relating to the processing, except where the party is otherwise prohibited by law from making such disclosure;
 - b) it intends to disclose personal data to any competent public authority; or
 - c) it detects or reasonably suspects that a data security breach has occurred.
- 13.4. You guarantee us that all data that you share with us, meet all requirements prescribed by the GDPR and other relevant legislation and have been obtained with consent of your client(s) (and if applicable other right holders). We are not liable for any claims by third parties in this regard.
- 13.5. We collect the data, details, and/or end results of the performance of the Agreement and (indirect) (personal) data relating to your Agreement. You grant us consent to use the details collected and anonymised (personal) data for commercial purposes. We reserve the right to provide anonymised data to third parties, such as for but not limited to benchmarking purposes or as a business case or, for example, in presentations to potential new clients of us. Individual personal data of your customers will never be shared with third parties.
- 13.6. The data we store for you within the scope of the Agreement for our service Salesmapp, will be stored by us for a maximum of three (3) years, irrespective of the duration of the Agreement. After three (3) years, we will archive this data for which reason this data will no longer be accessible via our Services. We will delete this data entirely from our servers after five (5) years.
- 13.7. Each party is responsible for the compliance of the obligations in this article by the sub-data processor engaged by that party. The party will oblige each sub-data processor to comply with the provisions set out in this clause.

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14. Miscellaneous

- 14.1. By using our Services, you consent to receiving electronic communications regarding to the Services and other communications such as newsletters, special offers, promotional announcements and customer surveys.
- 14.2. If any provision in these General Terms and Conditions, the Agreement or any agreements ensuing from it is invalid or voidable or otherwise does not have effect, the other provisions will continue to apply in full and the parties will enter into consultation in order to agree on a new provision to replace the null and void or voided provision, in the course of which the objective and purport of the invalid or void provision will be duly observed to the greatest extent possible.
- 14.3. Deviations from and/or additions to these General Terms and Conditions will only be valid if they have been agreed on explicitly between the parties in writing.
- 14.4. These General Conditions may be amended by us from time to time. Any amendments to these General Terms and Conditions will be placed on our website.
- 14.5. Any amendments to the General Terms and Conditions will also apply to pre-existing Agreements.

15. Jurisdiction and disputes

- 15.1. All legal relationships between you and Datling that are governed by these General Terms and Conditions are exclusively subject to Dutch law.
- 15.2. Any dispute arising from relationships between you and Datling that are governed by these General Terms and Conditions will only be submitted to the Court of Rotterdam, the Netherlands.