

General Terms and Conditions

DevelopmentPlanner 360feedback.app



**General terms and conditions apply to all proposals.
Upon accepting our offer, we kindly ask that you provide
your initials on each page to confirm that you have reviewed
and understood the terms and conditions.**

I DEFINITIONS

In these general terms and conditions, the following terms (whether used in singular or plural form) are defined as outlined below, unless a different meaning is indicated by the context or intent of the provisions.

- a **DevelopmentPlanner:** user of these general terms and conditions, established at Velperweg 47-1501, 6824 BG in Arnhem, The Netherlands, registered with the Trade Register under the Dutch company name **Ontwikkelplanner**, Chamber of Commerce number 30166852.
- b **Client:** any natural or legal person, with whom DevelopmentPlanner has concluded or intends to conclude an agreement.
- c **Consumer:** the Client referred to in the previous paragraph, who is a natural person, not engaged in professional or business activities.
- d **Parties:** DevelopmentPlanner and the Client jointly.
- e **Agreement:** any agreement concluded between DevelopmentPlanner and the Client regarding the purchase of feedback assessments or related reports and the use of software required for that purpose.
- f **Software:** DevelopmentPlanner's 360° feedback tool licensed under the agreement.
- g **Website(s):** 360feedback.app, 360gradenfeedback.nl, 360feedback.online, 360feedback.systems, ontwikkelplanner.nl, development-planner.com
- h **Written/In Writing:** communication in writing, communication by e-mail, SMS, WhatsApp or any other comparable means of communication, considering the current state of technology and widely accepted norms.

2 GENERAL PROVISIONS

- 2.1 The general terms and conditions are applicable to all proposals made by DevelopmentPlanner and to every agreement that is established.
- 2.2 The applicability of any general terms and conditions of the Client, under any title whatsoever, is explicitly rejected.
- 2.3 Any deviations from the provisions in these general terms and conditions must be made explicitly and in writing. Should there be any discrepancies between the written agreements established between the parties and the provisions detailed in these general terms and conditions, the written agreements shall prevail.
- 2.4 Annulment or voidance of one or more provisions of these general terms and conditions or the agreement itself shall not affect the validity of other clauses. In that case, parties shall enter into mutual consultation in order to reach a replacement arrangement in respect of the affected clause, which shall as much as possible be in keeping with the purpose and scope of the original provision.

3 OFFERS

- 3.1 Any offer made by DevelopmentPlanner shall be non-binding, irrespective of its form and how the offer is made. DevelopmentPlanner may revoke its offer without delay, i.e. as soon as possible after acceptance by the Client.
- 3.2 The Client cannot derive any rights from an offer by DevelopmentPlanner that contains an obvious mistake or error. Further to this, the Client cannot derive any rights from an offer of DevelopmentPlanner that is based on inaccurate or incomplete information provided by the Client.

4 OBLIGATIONS ON THE PART OF THE CLIENT

- 4.1 The Client shall ensure that all data (including data files) required by DevelopmentPlanner or which the Client should reasonably understand to be required for the execution of the agreement, will be provided to DevelopmentPlanner as soon as possible as required for the respective execution. The Client guarantees the accuracy of all information supplied to DevelopmentPlanner. DevelopmentPlanner bears no liability whatsoever for any loss of any kind, resulting from the fact that DevelopmentPlanner has relied on inaccurate and/or incomplete data provided by the Client.
- 4.2 The Client must at all times provide its full cooperation to DevelopmentPlanner, which is required for the execution of the agreement. The Client shall take all reasonable measures to make sure that the circumstances are as effective as possible for DevelopmentPlanner's performance of the contract.
- 4.3 The Client shall grant DevelopmentPlanner any powers and authorisations reasonably required for the proper execution of the agreement.
- 4.4 The Client must at all times inform DevelopmentPlanner without delay of any changes in the Client's name, address and/or other details, which may be relevant to the performance of the agreement.

5 ACCOUNTS

- 5.1 The Client is obliged to keep its login details for accessing the software confidential. If multiple accounts are provided to the Client, these may only be given to the employees within the Client's organisation, who have been authorised by the Client to use them.
- 5.2 The software to be used by employees under the agreement as referred to in the previous paragraph shall be used under the Client's responsibility. All actions performed through the use of the software by employees under any account associated with the agreement will be attributed to the Client. The Client therefore bears liability in respect of DevelopmentPlanner with regard to the actions of its employees using the software.
- 5.3 The Client must notify DevelopmentPlanner immediately if the Client is aware or suspects that any login data connected with the contract has come into the possession of an unauthorised third party. In such cases, DevelopmentPlanner is entitled to take effective measures to prevent or restrict any unauthorised use of the software.

6 FOR CONSUMERS: RIGHT OF DISSOLUTION

- 6.1 This article only applies to contracts entered into by paying consumers who placed direct orders through the ordering process on one of 'DevelopmentPlanner's websites. In that case, a distance contract applies as referred to in Book 6, Section 230g, subsection 1, under e of the Dutch Civil Code. Under such an agreement, the right of dissolution as referred to in Book 6, Section 230o of the Dutch Civil Code does not accrue to the consumer, provided that:
 - a the software has already been provided to the consumer by sending login details for access. From the moment log-in data have been provided to the consumer, the consumer shall be able to use all the features of the software offered to him, and the agreement is deemed to have been fulfilled by DevelopmentPlanner;
 - b performance of the contract has commenced with the consumer's explicit prior consent; and
 - c the consumer has declared to waive their right of rescission as soon as DevelopmentPlanner has provided the login details to the consumer.
- 6.2 As long as the conditions referred to in paragraph 1 under a up to and including c have not been met, the consumer has the right to dissolve the agreement up to 14 days after its conclusion without stating reasons. The consumer may exercise their right of dissolution, if applicable, by submitting a request to that effect to DevelopmentPlanner by e-mail. As soon as DevelopmentPlanner has been notified of the consumer's intention to dissolve the contract, DevelopmentPlanner will confirm the dissolution to the consumer by e-mail as soon as possible.
- 6.3 DevelopmentPlanner will refund any received payment to the consumer as soon as possible, at the latest within 14 days after dissolution of the agreement. This will take place through the same payment method the consumer used to make the payment. If the consumer's bank account has been debited by iDeal, the refund will be made by a transfer to the relevant bank account.

7 USE OF THE SOFTWARE

- 7.1 During the term of the agreement, DevelopmentPlanner grants a limited, non-exclusive, non-transferable and non-sub-licensable right of use in respect of the software. This right of use applies only to those persons who are entitled to use the software under the provisions of Article 5. The said right of use shall expire by termination of the agreement.
- 7.2 The software is provided in its current state and availability at the time the agreement is finalized, without any guarantees, unless there is a clear agreement with the Client indicating that the software possesses specific features, or if the Client could reasonably expect that certain features would be available. The Client cannot invoke default on the part of DevelopmentPlanner based on the assertion that the software lacks features that have not been explicitly agreed upon.
- 7.3 The use of modern browsers is required for a proper operation of the software: recent versions of Edge, Safari or Chrome. Browsers must accept cookies and JavaScript from the software to ensure optimal performance.
- 7.4 DevelopmentPlanner is entitled to make adjustments to the software throughout the duration of the agreement, with the understanding that such modifications will not compromise the functionalities of the software that have been explicitly agreed upon by both parties or that the Client could reasonably expect to remain intact for the duration of the agreement.
- 7.5 Use of the software is only permitted for the purposes for which the software was developed and intended.
- 7.6 The Client shall ensure that its systems on which the software is accessed are adequately protected against viruses and malware.

Client


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- 7.7 Any attempt to decompile or replicate the software, manipulate it in any other way or develop software that infringes the software used/developed by DevelopmentPlanner and/or the associated intellectual property rights as delineated in Article 15, is strictly prohibited.
- 7.8 Use of the software for unlawful acts, for acts contrary to generally applicable standards, and for committing criminal offences is prohibited. This includes the infringement of any (intellectual) property rights of DevelopmentPlanner or third parties, uploading secret or confidential information and unlawful breaches of the systems which the services of DevelopmentPlanner rely on, including the spreading of viruses, worms et cetera.
- 7.9 The Client and any employees authorised by the Client will have the authority to decide which data is to be stored and/or generated through the software. Consequently, the Client is responsible for ensuring that such data are lawful and do not infringe on the rights of third parties. DevelopmentPlanner does not accept any liability for data stored and/or generated by or on behalf of the Client using the software. The Client indemnifies DevelopmentPlanner against all third-party claims based on the assertion that data stored and/or generated by or on behalf of the Client using the software are unlawful or infringe on the rights of third parties.
- 7.10 Should DevelopmentPlanner become aware of any data stored and/or generated by or on behalf of the Client using the software that is unlawful, DevelopmentPlanner will be entitled to take immediate action to remove or block access to that information. Under no circumstances will DevelopmentPlanner be liable for any damages resulting from such action.
- 7.11 If DevelopmentPlanner, or third parties whose services DevelopmentPlanner uses to execute the contract, believe(s) the performance of the software or computer systems or the network of DevelopmentPlanner or third parties is at risk, DevelopmentPlanner is entitled to take all measures deemed reasonably necessary to avert or prevent such risk.

8 DURATION AND END OF THE AGREEMENT

- 8.1 If it has been expressly agreed that DevelopmentPlanner's software will be put to use free of charge for the Client during a test period, the agreement ends by operation of law upon expiry of the test period, whether or not followed by continuation of paid use of the software. If a test period has been expressly agreed upon and the duration has not been specified, a 14-day test period will be applicable after the software has been utilised by DevelopmentPlanner.
- 8.2 If the DevelopmentPlanner's software has been provided for use in exchange for payment, the software will be available for an indefinite duration, on the proviso that, if the Client's account has been inactive for at least 24 months, DevelopmentPlanner reserves the right to delete the account. The account is considered inactive once the Client has depleted their purchased credit balance (credits) or when its validity has expired. During the inactive period, feedback scores will be retained up to the moment the account is removed by DevelopmentPlanner or the Client.
- 8.3 After deletion of the Client's account or termination of the agreement, for any reason whatsoever, DevelopmentPlanner has no obligation to retain any data stored and/or generated through the software.

9 PRE-PAID CREDITS

- 9.1 Credits are required to initiate assessments and/or generate reports. The client is obligated to acquire these credits in advance. The purchased credits remain valid for a period of 12 months from the date of purchase. If more than 80 credits are acquired at once, the validity period extends to 24 months, unless there is a specific agreement stating otherwise.
- 9.2 Once acquired, credits are non-redeemable for cash.

10 FORCE MAJEURE

- 10.1 DevelopmentPlanner shall not be held accountable for the fulfilment of any obligations stipulated in the agreement if it is hindered from doing so by circumstances that cannot be legally attributed to it, whether due to statutory provisions, legal actions, or widely accepted and prevailing standards.
- 10.2 If fulfilment of the agreement becomes permanently impossible due to force majeure, or the force majeure situation continues for more than three months, the parties are entitled to dissolve the agreement with immediate effect.
- 10.3 If DevelopmentPlanner has already partially fulfilled its obligations when the force majeure situation arises, or can only partially fulfil its obligations, it will be entitled to separately charge the Client for the part of the contract already fulfilled or the part that can still be fulfilled, as if it were an independent contract.
- 10.4 Without prejudice to the provisions of the previous paragraph, any loss resulting from force majeure shall never be eligible for compensation.

11 SUSPENSION AND DISSOLUTION

- 11.1 Without prejudice to DevelopmentPlanner's right to claim fulfilment of the (payment) obligations of the Client arising from the agreement, DevelopmentPlanner shall, if so reasonably justified by the circumstances, be entitled to dissolve the agreement with immediate effect and without court intervention, or to suspend its execution, if the Client fails to fulfil their (payment) obligations arising from the agreement, or fails to do so on time or in full. If the fulfilment of the Client's obligations is not permanently impossible, the right to dissolve the contract only arises after DevelopmentPlanner has given the Client written notice of default, specifying a reasonable period in which the Client can still fulfil its obligations and the fulfilment has still not been effected after the expiry of the last-mentioned period.
- 11.2 Should the Client breach the conditions of use outlined in the general terms and conditions related to the software, DevelopmentPlanner reserves the right to terminate the contract immediately, unless the breach is deemed insignificant and does not warrant contract dissolution.
- 11.3 The Client shall not at any time be entitled to claim any damages with respect to the right of suspension or dissolution exercised by DevelopmentPlanner under this article.
- 11.4 The Client will bear any loss incurred by DevelopmentPlanner due to the suspension or dissolution of the contract.

12 PRICES AND PAYMENTS

- 12.1 All amounts stated by DevelopmentPlanner and payable by the Client are exclusive of Value Added Tax (VAT) and other government charges, provided that if an offer is directed towards consumers, the specified amounts include VAT.
- 12.2 DevelopmentPlanner is entitled to change its prices, on the proviso that price changes do not apply to current agreements. The Client cannot derive any rights from previously agreed prices.
- 12.3 Subject to proof to the contrary, DevelopmentPlanner's administration records shall be conclusive in determining the amounts due to DevelopmentPlanner by the Client.
- 12.4 Payments are to be made as stated by DevelopmentPlanner, within the term specified or notified by DevelopmentPlanner. The payment term is usually 14 days after the invoice date, however, DevelopmentPlanner may deviate from this in individual cases.
- 12.5 DevelopmentPlanner is entitled to claim payment of the amounts due by the Client by way of advance payment. In such case, DevelopmentPlanner is not obliged to (further) execute the agreement until full payment of the amount due by the Client.
- 12.6 DevelopmentPlanner is entitled to submit invoices to the Client exclusively by e-mail.
- 12.7 If payment is not made on time, the Client will be in default by operation of law and DevelopmentPlanner may, if warranted by the default, invoke the provisions of Article 11.1. From the day when the Client is in default, it will also owe the then-current legal (commercial) interest on the outstanding amount.
- 12.8 All reasonable costs incurred to obtain the amounts owed by the Client, including court, extra-judicial, and execution costs, shall be borne by the Client.

13 LIABILITY AND INDEMNITY

- 13.1 Although DevelopmentPlanner will make every effort to achieve uninterrupted availability of the software, no such guarantees can be provided. Consequently, DevelopmentPlanner does not accept any liability.
- 13.2 Anyone using the software on behalf of the Client shall be personally responsible for the use and proper interpretation of the information provided through the software, including reports and analyses. DevelopmentPlanner does not accept any liability in this respect. Further to this, DevelopmentPlanner assumes no responsibility or liability for the actions and inactions of users in response to such information.
- 13.3 The documentation maintained or generated with or by the software, such as reports and analyses, are only intended as an aid; DevelopmentPlanner cannot ensure that this documentation is suitable for purposes beyond providing information.
- 13.4 If, when using import and export files, data originating from the Client are transferred to other systems, DevelopmentPlanner shall not be liable for the content of such data and any damage caused by such files to systems to which the data is transferred.
- 13.5 The occurrence of software bugs can happen at any given time and will be addressed by DevelopmentPlanner as soon as possible after notification. DevelopmentPlanner cannot reasonably be held liable for the presence of bugs in the software and liability is therefore excluded.
- 13.6 DevelopmentPlanner bears no liability whatsoever for consequential loss, including lost profits, incurred losses and damage resulting from interruption in business operations.

Client


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- 13.7 Any liability of DevelopmentPlanner for loss attributable, without prejudice to the provisions of these general terms and conditions, to DevelopmentPlanner, ceases if the Client has not filed a complaint with DevelopmentPlanner within one month after the discovery of the loss, i.e. the reasonable discovery of the loss.
- 13.8 With regard to a loss that is repairable, the Client must provide DevelopmentPlanner the opportunity to rectify such loss. Failure to do so will result in the absolution of any liability on the part of DevelopmentPlanner in this matter.
- 13.9 If, notwithstanding the other provisions of these general terms and conditions, any liability is vested with DevelopmentPlanner, such liability shall be limited to the invoice value of the contract, i.e. to that part of the contract to which DevelopmentPlanner's liability relates. If the loss for which DevelopmentPlanner may be liable, despite the provisions in the remainder of these General Terms and Conditions, is excessive in relation to the invoice value of the contract, such liability shall be limited to the amount effectively paid under DevelopmentPlanner's liability insurance policy in the case in question, increased by DevelopmentPlanner's deductible (if any) that applies under such insurance policy.
- 13.10 Notwithstanding the statutory limitation period, the limitation period for all legal claims and defences against DevelopmentPlanner shall be one year.
- 13.11 Except in the event of malicious intent or wilful recklessness on the part of DevelopmentPlanner, the Client shall indemnify DevelopmentPlanner against any claims made by third parties, on any ground whatsoever, for compensation of loss, costs, or interest relating to the use of the software by or on behalf of the Client. In particular, the Client shall indemnify DevelopmentPlanner against claims from individuals whose personal data have been registered or processed with regard to a personal data registration held by the Client or for which the Client is legally or otherwise responsible, unless the Client proves that the facts underlying the claim can be attributed to DevelopmentPlanner.
- 13.12 The Client indemnifies DevelopmentPlanner against any losses and claims from third parties arising from the fact that the provisions of these general terms and conditions or any statutory regulation are violated by or on behalf of the Client. If DevelopmentPlanner faces legal action from third parties in this respect, the Client shall assist DevelopmentPlanner both in and outside a court of law and promptly take all necessary actions that may be expected of him in that case. If the Client fails to implement appropriate measures, DevelopmentPlanner shall, without notice of default being required, be entitled to implement such measures itself. All resulting costs and losses on the part of DevelopmentPlanner and third parties will be borne entirely by the Client.

14 INTELLECTUAL PROPERTY

- 14.1 All copyrights and other intellectual property rights to the domain names and trade names of DevelopmentPlanner, the software and parts of the software, including the design and performance of the software and images displayed through the software, as well as the data and documentation generated through the software, are vested in DevelopmentPlanner or its licensors. Without DevelopmentPlanner's or its licensors' prior written consent, making copies, the reproduction, distribution or operation of the material that is subject to DevelopmentPlanner's or its licensors' rights or the creation of derivative works in any way whatsoever, is prohibited. With regard to data and documentation generated using or by the software, the above applies subject to use for normal purposes for which such documentation or data have been provided to the user of the software.
- 14.2 DevelopmentPlanner is permitted to implement measures on a technical level to protect intellectual property rights relating to the software. This protection should prevent abuse or any other form of unlawful use of the software.
- 14.3 A breach of the provisions of paragraph 1 of this article attributable to the Client entitles DevelopmentPlanner or its licensors to claim immediate rectification of the breach, as well as damages to be determined in accordance with the nature and extent of the breach.
- 14.4 DevelopmentPlanner has the right to publish the Client's logo and/or company name on the Website(s) for its own promotion, without requiring the Client's prior consent and without paying any fee in this regard.

15 CONFIDENTIALITY

- 15.1 DevelopmentPlanner will diligently safeguard and maintain the confidentiality of all sensitive information, such as personal data of employees, the Client himself and other third parties, as well as confidential business data, data files of the Client and other confidential information that may be disclosed during the execution of the agreement. Information will be deemed confidential if designated as such by the parties or if its confidential nature is evident.

- 15.2 DevelopmentPlanner will use Client's confidential information solely for the purpose for which it was provided to DevelopmentPlanner or for which it has otherwise come into DevelopmentPlanner's possession.
- 15.3 The obligations referred to in the previous paragraphs of this article do not apply if and insofar as DevelopmentPlanner is legally obligated by law or court order, or in connection with the agreement's execution is reasonably obliged, to disclose the confidential information to third parties.

16 APPLICABLE LAW, COMPLAINTS AND DISPUTES

- 16.1 Any agreement and all ensuing legal relationships between the parties shall exclusively be governed by Dutch law.
- 16.2 In the event of a dispute, the parties shall make every effort to settle the dispute by mutual consultation before resorting to the courts. The Client can contact DevelopmentPlanner with respect to any complaints regarding the use of the software and with respect to the agreement in itself. Any complaints on the part of the Client about DevelopmentPlanner must be submitted in writing, fully and clearly described, and within a reasonable time after the Client has identified the reasons for the complaint.
- 16.3 Complaints submitted to DevelopmentPlanner will be responded to within a period of fourteen days after receipt. If a complaint requires a longer processing time, a reply with acknowledgement of receipt and a time-frame of when the Client can anticipate a more specific answer will be provided within the fourteen-day period.
- 16.4 If a consumer's complaint about DevelopmentPlanner cannot be resolved by mutual agreement, the consumer may submit the dispute to the Disputes Committee using the ODR platform (ec.europa.eu/consumers/odr).
- 16.5 Only the competent court within the district of DevelopmentPlanner's place of business will be designated to hear any legal disputes, subject to any imperative law provisions to the contrary.
- 16.6 In cases where these general terms and conditions are available in multiple languages, the version in Dutch (available upon request and found at <https://www.360feedback.app/algemene-voorwaarden>) shall at all times be decisive with regard to the interpretation of the clauses contained.

DEVELOPMENTPLANNER (DUTCH COMPANY NAME: ONTWIKKELPLANNER)

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