General Terms and Conditions

Version 1.05

All legal documents of ZooEasy are only available in Dutch and English.

Version changes:
V1.05: Paragraphs 14.1, 14.2 amended and paragraphs 14.9 to 14.11 added.

Section 1: Definitions

The hereafter stated terms indicated with a capital letter are defined as follows in this Agreement:

Contracting party: those who have concluded an Agreement with ZooEasy or have submitted a request for this.

User: those who actually use the Service.

Service: the, upon payment, making available and maintenance of the Software on the Server by ZooEasy on behalf of the Contracting party as well as the development of Custom-made Software in accordance with the Specifications.

Data: The data entered by a User via the Service.

Documentation: the user-directed manuals for the purpose of using the Software.

Conditions of use: the conditions that apply to the User of the Software.

Shortcoming: demonstrable shortcoming in the Software with regard to the characteristics therefore agreed upon in the Specifications.

Intellectual property rights: all rights of intellectual property and rights related therewith such as copyright, trade mark right, patent right, design right, trade name right, database right and neighboring rights as well as rights on know-how and to performances on a par with patentable inventions.

Custom-made software: software developed by order of the Contracting party.

Agreement: these Conditions as well as the quotation signed between Parties regarding the Service, the Conditions of use and/or any other, in conformity with the Conditions, declared determination or statement applicable, legally valid to the legal relationship between Parties.

Party: each party in the Agreement.

Parties: ZooEasy and the Contracting party jointly.

Software: the ZooEasy Online software, including new versions and custom-made software.

Server: a computer managed by or on behalf of ZooEasy with on it the web-server software that is accessible from the internet.

Specifications: the functionality and operation of the Software described in the Agreement.

Conditions: these general terms and conditions for ZooEasy Online.

Website: the website under the domain name of www.zooeasyonline.com

ZooEasy: the firm Reudink Software BV

Section 2: Applicability

2.1 These Conditions are applicable to all Agreements and all (legal) actions between Parties, also when those (legal) actions do not lead to, or are not connected to, an Agreement.

2.2 The Conditions are also applicable to each use of the Website by the Contracting party.

2.3 The applicability of any general terms and conditions applied by the Contracting party is ruled out.

Section 3: Communication

3.1 Each communication between ZooEasy and the Contracting party can occur electronically subject to as far as deviation is made from this in these Conditions and/or the Agreement and/or the law.

3.2 The by ZooEasy received and stored version of the communication concerned counts as evidence thereof, subject to evidence to the contrary from the Contracting party.

3.3 The electronic communication sent by ZooEasy is considered to be received on the day of the sending, unless the contrary is proven by the Contracting party. If the communication has not been received as a result of delivery and/or accessibility problems with regard to the e-mailbox of the Contracting party, this is at the risk of the Contracting party, also if the e-mailbox is housed by a third party.

Section 4: Concluding of the Agreement

4.1 Statements by ZooEasy with regard to the provision of the Service count as an invitation to the making of an offer. Unless a separate written agreement is concluded, the Agreement is established by the confirmation of the order of the Contracting party by ZooEasy. Confirmation can occur electronically or, if agreed upon as such, in writing (per fax or letter).

Section 5: Service (provision)

5.1 Before a User can make use of the Software, he is required to accept the Conditions of use which can be consulted on, amongst others, www.zooeasyonline.com.

5.2 ZooEasy distributes the agreed upon number of usernames and passwords on behalf of the Service. The Contracting party is permitted to distribute the usernames and passwords to Users under the condition that the User will accept the Conditions of use. Not accepting of the Conditions of use by a User will never be able to lead to repayment of money already paid by the Contracting party.

5.3 ZooEasy has the right to modify the Software from time to time in order to improve the functionality and to repair Shortcomings or to fulfill rules posed under the law. ZooEasy will make every effort to solve any Shortcomings in the Software but cannot guarantee that all Shortcomings are repaired. If a modification leads to a change in the functionality, ZooEasy will inform the Contracting party of this in advance of the modification. Because the Service is provided to multiple Contracting parties, it is not possible to forgo a certain modification for the Contracting party only. The user documentation of the current version of the Software will continuously be available to the User on the Server in electronic form.

5.4. All services (including but not limited to the Service) are executed on the basis of an obligation to perform to the best of one's ability, unless and as far as ZooEasy has explicitly promised a result and the result concerned is additionally described with sufficient definition. Continually, any agreements about the service level are merely agreed upon explicitly in writing.

Section 6: Availability and Maintenance

6.1 ZooEasy maintains the right to temporarily put the Service out of use for the purpose of maintenance, modification or improvement of the ZooEasy computer systems. ZooEasy will inform the Contracting party of the planned closedown on time. ZooEasy will never be held liable for any compensation towards the Contracting party on account of such a closedown of the Service.

6.2 ZooEasy will make every effort to let the agreed upon Service function properly and aims for the highest possible availability, quality and security of the Service. Other than as possibly entered in the Agreement ZooEasy, however, provides no guarantee in this. Under availability it is understood that the Server is available from the Internet on the URL distributed to the Contracting party and that the Software actively runs on the Server. Under availability, the existence of a functioning point-to-point connection between the systems of the Contracting party and the Server is thus not understood. After all, ZooEasy cannot exert influence on the systems of the Contracting party and on the intermediate internet infrastructure.

6.3 If the Service is not available for a connected period longer than 1 month, the Contracting party has the right to repayment of the prepaid annual fees in proportion to the period that the Service has not been available.

Section 7: Support

7.1 ZooEasy will support the Contracting party online in the use of the Service. The support is provided both by telephone and e-mail. ZooEasy will make every effort to answer questions adequately and within three working days. ZooEasy can, however, not be held responsible for the accuracy and/or completeness of the answers.

7.2 The Contracting party can allocate persons with his organization who are qualified to act as support contact persons.

7.3 Unless otherwise agreed upon in a separate agreement, ZooEasy will not provide support activities at the business location of the Contracting party.

Section 8: Prices and Payment

8.1 The Contracting party pays the in the Agreement stated price for the Services ordered by the Contracting party. Payment occurs in the manner specified in the Agreement, without prejudice to the provisions in section 8.6.

8.2 Prices are excluding VAT and other governmental charges unless indicated otherwise.

8.3 The prices stated on the ZooEasy website and in advertising can be modified without prior announcement.

8.4 In case of payment against invoice and ZooEasy offers that possibility, the Contracting party is required to pay within fourteen days of receipt of the invoice, unless other terms are stated by ZooEasy. An electronically sent invoice is considered to be received on the day of the sending. Invoices sent by post are considered to be received within 2 (two) working days after the postmark in the Benelux and within 5 (five) working days after the postmark in other countries.

8.5 In case of late payment ZooEasy has the right to 1) without the need for proof of default or notification, charge for the legal interest over the entire amount payable from the date on which payment should have occurred until the date on which the amount payable is received by ZooEasy; and 2) transfer the claim for collection to a third party after proof of default.

The contracting party will reimburse all costs that ZooEasy and this third party need to make to collect the payable amount, including amongst others costs for legal assistance, legal costs and extrajudicial costs, the latter with a minimum of 15 (fifteen) percent of the outstanding sum.

8.6 ZooEasy is authorized to suspend or limit the access and use of the Service or Service provision until the entire outstanding payment is received by ZooEasy. The obligation of the Contracting party for payment of the fees will continue to exist throughout the period of closedown. When the Contracting party finally fulfills, costs are owed for the reconnection.

8.7 Per 1 January of each calendar year, the reimbursements owed by the Service are indexed on the basis of the modification in the month price index number according to the index number "Collective Labor Agreement-wages for the private sector, contractual wage costs and employment; index number" published by Statistics Netherlands.

Section 9: Intellectual Property rights

9.1 The intellectual property rights as well as all comparable rights for the protection of data and data on the Software that ZooEasy makes available as part of the Agreement, remain with ZooEasy or with third parties of whom ZooEasy has obtained the right (or part thereof) to make this Software available to the Contracting party.

9.2 If, by the judgment of ZooEasy, it is plausible that it is determined that the Software made available by ZooEasy under the Agreement invades any right of a third party, ZooEasy is authorized to, by own choice 1) ensure that the Contracting party can continue to use the Software made available, or 2) discontinue the delivery of the Services concerned upon payment of a reasonable reimbursement for the use thereof and possible refunding of the excess, or 3) to make available similar Software, to the reasonable judgment of ZooEasy. All further liability, obligation to further compliance or obligation for compensation is herewith ruled out.

9.3 The Contracting party guarantees that he, in as far as materials or data are made available by him as part of the Agreement, is authorized to these and that these materials and data do not infringe on the rights of third parties.

9.4 Subject to as far as peremptorily permitted by law or in the Agreement, the Contracting party is not allowed to use the Software made available, including documentation, as a basis to make new software or to multiply, decompile, apply reverse-engineering to it, translate, adapt or carry out similar actions to those mentioned.

Furthermore, it is not permitted to remove or evade security measures or technical (user) limitations of the Software.

9.5 The (intellectual) property rights on the Data entered by a User remain with the User. ZooEasy cannot use this Data for own use or distribute the data to third parties.

Section 10: Privacy

10.1 Parties will ensure, as far as relevant under the terms of an Agreement, the legitimate processing of (personal) data in agreement with the relevant legal rules and regulations with regard to the protection of the personal private life, in particular the Law on the protection of Personal Data. The Contracting party indemnifies ZooEasy from all claims of third parties as the result of violation by the Contracting party of legal regulations intended for this.

10.2 Parties will comply with the guidelines from the ZooEasy privacy policy of which the most recent version can continually be found on the internet site www.zooeasy.com.

10.3 ZooEasy will comply with legal obligations with regard to distribution of information of the Contracting party (including personal data).

10.4 The personal data of the Contracting party is stored by ZooEasy no longer than is strictly necessary for the execution of the Agreement or than is legally obliged, after which ZooEasy will remove this data permanently without informing the Contracting party thereof.

10.5 The Contracting party has the right to be familiar with the personal data as this is maintained by ZooEasy.

The Contracting party can object to the manner in which he is recorded if the data is factually incorrect or is processed in disagreement with a legal regulation.

10.6 ZooEasy will take the required technical and organizational measures in order to secure the personal data against loss or any form of unlawful processing. These measures will be suitable, taking into account the state of the technology and the costs that are associated with it and will also be focused on preventing the unnecessary collection and further processing of personal data.

Section 11: Liability

11.1 The total liability of ZooEasy on account of attributable shortcoming is limited per incident to reimbursement of direct damage up to the fees (excluding VAT) actually paid by the Contracting party in the current calendar year, whereby applies that a series of connected incidents are viewed as one incident. In no case, however, will the total reimbursement for direct damage amount to more than the amount that is paid out in an occurring case by the liability insurer of ZooEasy. By direct damage is meant solely:

1. reasonable costs which the Contracting party would have to make in order to let the performance of ZooEasy fulfill the agreement; this replacing damage is, however, not reimbursed if the agreement is dissolved by, or is dissolved at the claim of, the Other party.

2. reasonable costs, made in the determination of the cause and the size of the damage as far as the determination is related to direct damage in the sense of these conditions;

3. reasonable costs, made for the prevention or limitation of damage as far as the Contracting party shows that these costs have led to limitation of direct damage in the sense of these conditions.

11.2 The liability of ZooEasy for damage through death or physical injury or due to material damage of matters, never amounts to more in total than is paid out by the liability insurer of ZooEasy.

11.3 Liability of ZooEasy for indirect damage, consequential damage, loss of profit, missed savings, diminished goodwill, damage by business stagnation, damage as a result of claims by buyers of the Contracting party, mutilation or loss of data, damage as a result of a defect in the software by which an incorrect breeding result is created, damage as a result of the publicly becoming accessible of privacy sensitive information because of a security mistake in the Software and all other forms of damage other than those mentioned in section 11.1 and 11.2, for whichever reason, is excluded.

11.4 The limitations stated in the preceding paragraphs of this section become invalid if, and as far as, the damage is the result of intention or gross negligence of ZooEasy or her supervisors.

11.5 The liability of ZooEasy due to attributable shortcoming shall only arise if the Contracting party gives ZooEasy notice of default without delay, although not later than within 4 weeks of the arising, soundly and in writing, thereby stating a reasonable period for curing the shortcoming and if ZooEasy also after this period fails to meet its obligations imputably. The notice of default shall contain a description of the shortcoming that is as detailed as possible, so that ZooEasy will be capable of giving an adequate reaction.

11.6 ZooEasy indemnifies the Contracting party against claims of third parties stating that Services delivered under the Agreement violate Intellectual Property Rights in the Netherlands or are otherwise unlawful, on the condition that the Contracting party immediately informs ZooEasy of the existence and content of such claims and that the Contracting party leaves ZooEasy completely free in the executing of negotiations about that and/or the reaching of a settlement and/or the carrying out of defense in a potential legal proceeding.

If, and as far as required, the Contracting party hereby grants ZooEasy an irrevocable mandate for carrying out judicial and extrajudicial defense against such claims and reaching of a settlement. The Contracting party commits to the providing of all information and cooperation with ZooEasy that is reasonably required for this.

The indemnification obligation of ZooEasy is no longer valid if and as far as the asserted invasion is caused by modifications in the delivered Services that have been carried out by the Contracting party or by a third party on behalf of the Contracting party, by use of the Software in combination with Software not supplied by ZooEasy or as the result of use in a manner other than for which the delivered Services are developed or intended. The amount of the claim is limited in the same manner as is described in paragraph 11.1.

Section 12: Force Majeure

12.1 A party is not bound to the fulfillment of one or more obligations if he/she is prevented thereto as the result of force majeure. By force majeure is also understood a shortcoming of brought in third parties or suppliers, as well as each situation on which the Party concerned cannot actually exercise (decisive) control (including electricity failure, breaking of the internet connection) all this excluding obligations to payment of money.

12.2 As soon as it becomes clear that the force majeure situation will last for longer than 3 (three) months, the other Party has the right to terminate this Agreement without being liable for damages. Prepaid annual reimbursements will in that case be settled pro rata.

Section 13: Confidentiality

13.1 If and as far as confidential information of a Party becomes the knowledge of the other Party in the execution of the Agreement, this receiving Party will only use this information for the execution of this Agreement and limit access to that information to people who need to become acquainted with it for that goal. Parties are responsible for ensuring that these people are obliged to confidentiality of this confidential information through a labor contract and/or a confidentiality agreement.

13.2 Under confidential information, information is not included which was already public at the moment that this came to notice, or has become public afterwards, or which the receiving Party has also received from a third party without enjoining of a confidentiality agreement or obligation to this of the third party.

13.3 No obligation to confidentiality exists in accordance with an obligation to notification existing under a legal regulation.

Section 14: Duration and termination

14.1 The Agreement is entered into for a period of one month or one year.

14.2 The Agreement automatically expires after this period, unless the Contracting party has ordered an extension. Non-renewal is permitted without reasons and motivation.

14.3 In case of (temporary) suspension of payment, bankruptcy, closing down or liquidation of the company of the Contracting party or violation of section 6 of the

Conditions, ZooEasy has the right to wholly or partly dissolve this Agreement without ZooEasy being liable for damages.

14.4 In case a dissolution occurs as indicated in paragraph 3, all claims of ZooEasy on the Contracting party are immediately and completely demandable. The Contracting party is obliged to take the required measures in order to give ZooEasy the opportunity to effectuate her rights.

14.5 In case of a dissolution or cancelation as indicated in this section, the following obligations of the Contracting party will continue after the ending of the Agreement:

– outstanding payments;

– confidentiality;

– intellectual property rights;

– liability

These obligations will continue to exist for as long as ZooEasy is able to lay claim on the continued existence thereof in reasonability.

14.6 ZooEasy is authorized to terminate (a form of offering of) the Service, observing a reasonable time period, if technical or business economic reasons necessitate this. Existing agreements will end at the latest, starting on the date on which the service provision is terminated. In that case ZooEasy will offer a substituting service where possible.

14.7 In case of termination of the Service, Parties will immediately enter into consultation regarding the (manner of) transfer of data, the service provision and/or other management measures.

14.8 All activities carried out by ZooEasy as part of the preceding paragraph are carried out and charged on the basis of subsequent calculation against the then applicable rates.

14.9 If the Contracting party extends the subscription to the Service, the expiration date of the pending or expired subscription to the Service will be used as the starting date and will be extended by the period chosen by the Contracting party.

14.10 If the Contracting party uses a Forever Free subscription to the Service, the data will be deleted by ZooEasy if the Contracting party does not log in to the Service for more than 6 months.

14.11 If the Contracting party uses a type of subscription to the Service other than Forever Free, the data will be deleted by ZooEasy if the Contracting party does not log in to the Service for more than 12 months after the expiration date.

Section 15: Modifications and additions

15.1 Modifications of and additions to any definitions in the Agreement are merely applicable if they are agreed upon in writing and/or electronically. One and another counts as agreement of evidence. If a modification and/or addition as indicated in this section paragraph is agreed upon, this modification or addition only applies to the Agreement concerned.

15.2 ZooEasy can modify these Conditions and/or the rates of the Service one-sidedly and can declare the modified conditions to be applicable to the existing Agreement. In case of modification of these Conditions and/or rates or a modification in the functionality as indicated in section 5.3 occurs, the Contracting party is authorized, in deviation from that determined in section 14 and within 3 months of sending of the (electronic) notification of the modification, to terminate the Agreement if the new Conditions and/or rates actually work at the disadvantage of the Contracting party or lead to a service provision that actually deviates from the service provision as this applied prior to the modification. Already prepaid annual fees will be reimbursed proportionately. The Contracting party is not authorized to dissolve the Agreement if the modification was necessary to fulfill regulations under the law.

Section 16: Miscellanea, applicable right and authorized judge

16.1 On these Conditions as well as on all Agreements, Dutch law is applicable. The regulation with regard to general conditions in the Civil Code will be left out of consideration in the relation with Contracting parties, not being consumers, from outside the Netherlands.

16.2 The definitions in these Conditions and the Agreement jointly determine the legal relationship between parties and will precede prior made agreements or statements by ZooEasy regarding the topic of the Agreement. This counts as agreement of evidence.

16.3 Subject to as far as such would be unacceptable according to standards of reasonability and fairness, the wording will initially be determining for the explanation of the Agreement. If the wording, also considered in connection to one another, is not be able to lead to reasonable explanation in the given circumstances, the reasonable (commercial) intentions of parties will count as a standard for the explanation. Counter evidence against not prima facie uncertain wording, as well as evidence directed at other explanation sources than the reasonable commercial intentions of parties is not permitted. That determined in this section paragraph counts as an agreement of evidence.

16.4 ZooEasy is allowed to bring in third parties in the execution of the Agreement according to own insight.

16.5 ZooEasy is allowed to convey rights and obligations from the Agreement to third parties and will inform the Contracting party thereof. If the transference of obligations to a third party is reasonably unacceptable for the Contracting party, he/she has the right to terminate the Agreement within 5 (five) days of receipt of the notification referred to.

16.6 Should any, to the reasonable judgment of ZooEasy, real definition in these Conditions or the Agreement be invalid or otherwise non-compelling, then ZooEasy has the right to destruct the further content of the Agreement, subject to as far as such would be acceptable in the given circumstances according to the standards of reasonability and fairness.

16.7 As far as national or international legal rules do not imperatively dictate otherwise, all disputes between Parties will be presented to the authorized judge in the court district of Groningen.

Additional terms regarding custom-made products and additional work

The in this paragraph stated terms are applicable, in addition to the previously stated terms, if ZooEasy develops Custom-made Software as well as in case of additional work.

Section 17: Custom-made products

17.1 Upon agreement, Parties will specify in writing which Custom-made Software will be developed and in which manner this will occur. The Contracting party is responsible for the accuracy, completeness and consistency of the data provided by him. ZooEasy will make every effort to execute the development of the Custom-made Software in accordance with the Specifications.

17.2 ZooEasy properly makes every effort to take into account the agreed upon (delivery) dates as much as possible. The single exceeding of a stated or agreed upon (delivery) date does not make ZooEasy neglectful. ZooEasy firstly becomes neglectful due to exceeding of the allotted time after the Contracting party has given ZooEasy notice of default in writing.

17.3 After ZooEasy has completed the development of the Custom-made Software, Parties will jointly evaluate the Custom-made Software on the basis of the Specifications.

17.4 After evaluation of the Custom-made Software, the Contracting party will accept the Custom-made Software by means of a signed declaration thereto.

17.5 Acceptance of the Custom-made Software cannot be withheld on other grounds than those relating to the explicitly agreed upon Specifications between Parties and furthermore not on account of the existence of small defects, that reasonably do not prohibit the operational or productive use of the Custom-made Software nor on account

of aspects of the software which can merely be evaluated subjectively such as the design of the user interfaces.

Section 18: Additional work

18.1 If ZooEasy has carried out activities or other performances that lie outside the Agreement at the request of the Contracting party, these activities or performances will be compensated by the Contracting party on the basis of subsequent calculation according to the rates of ZooEasy applicable at that time. Additional work is also in question if a design or specifications are expanded.