

## MEDIALAB ONLINE - CONDITIONS FOR USE

This document sets out the conditions that apply to Users that wish to gain access to the Medialab (as defined below) and that subsequently wish to make the Content that they themselves have placed on it (as defined below) accessible to their Contacts.

By entering into an Agreement with MediaLab online bv (as defined below) regarding the Service (as defined below) and/or by generating an Account (as defined below), the User declares that he accepts these Conditions for Use.

These Conditions for Use govern all use of the Medialab or in any event the Service (as defined below). After an Account has been generated, these Conditions for Use can be found at <http://www.mlonline.nl/gvw.pdf>. If the User does not accept these Conditions for Use, he should not generate an Account and should not use the Service.

### Article 1      Definitions

In these Conditions for Use the terms listed below are written with an initial capital. Those terms mean the following:

- 1.1      *Account*: personal section that is managed by the User and that is created when the User registers for the Service;
- 1.2      *Contacts*: Contacts of the User - natural persons or legal entities - that can gain access via the User's Account to the Content that the User has placed on his Account;
- 1.3      *Database*: the joint personal and other data of Users and Contacts collected by MediaLab online bv;
- 1.4      *Service*: the Service that MediaLab online bv provides to Users via the Website, by means of which Users can place, process, publish and/or distribute Content to Contacts by means of the Medialab, as specified in more detail in the Agreement.
- 1.5      *User*: a natural person or legal entity that has generated an Account for the Service and that has entered into an Agreement for that purpose with MediaLab online bv;
- 1.6      *Intellectual Property Rights*: all Intellectual Property Rights and related rights, such as copyrights, trademarks, patents, design rights, trade name rights, database rights and neighbouring rights, as well as rights to Know-How and performances on a par with a patentable invention;
- 1.7      *Know-How*: all information and knowledge regarding the Service and in particular regarding the ability to place and publish Content by means of the Medialab;
- 1.8      *Agreement*: the Agreement between MediaLab online bv and the User for access to and use of the Service via an Account. The Agreement is concluded upon the lawful acceptance of an order form by the User;
- 1.9      *Report*: the reporting of the presence of information on the Website, or in any event in the Account, which information infringes Intellectual Property Rights and/or other rights of third parties;
- 1.10     *Username*: the name that has been given to the User;

- 1.11 *Content*: all the material that a User places, processes, publishes and/or distributes on its own Account on the Medialab by means of the Service, including but not limited to video, photographic, image and/audio material and other files;
- 1.12 *Medialab*: the closed digital platform developed and produced by MediaLab online bv in order to place, process, publish and/or distribute Content via the Internet;
- 1.13 *Password*: the Password stated by the User; and
- 1.14 *Website*: the mlonline.nl website, including all subdomains.

## **Article 2      Applicability**

- 2.1 These Conditions for Use govern all Agreements and any use made of the Service by the User.
- 2.2 These Conditions for Use also govern the use of the Service by Contacts via the User's Account. The User accepts that he is at all times responsible and liable for the use of the Service by Contacts via the User's Account. The User indemnifies MediaLab online bv against any and all loss and cost arising from and/or related to the use of the Service by the Contacts via the User's Account.
- 2.3 MediaLab online bv may at any time amend or supplement these Conditions for Use. In that case the amended Conditions for Use will be sent to the User by e-mail. If the User continues the use of the Service after receipt of the amended or supplemented Conditions for Use, he thereby irrevocably accepts such conditions. If the User does not accept the amended or supplemented Conditions for Use, he must waive the use of the Service and terminate his Account. The current Conditions for Use can at all times be found on the Website.

## **Article 3      Logging on to the Service**

- 3.1 In order to use the Service, the User must generate an Account in the manner described on the Website. During the registration the User must furthermore state a Username and a Password, in order to gain access to the Account. No later than seven days after the conclusion of the Agreement the User will receive a Username and Password from MediaLab online bv.
- 3.2 The User himself is responsible for keeping the Username and Password combination a secret. The User is therefore liable for any and all use made of the Service by means of the Username and Password. MediaLab online bv may assume that the User is actually the party logging on with his Username and Password. As soon as the User knows or has reason to suspect that a Username and/or Password has fallen into the hands of unauthorised parties, the User must immediately inform MediaLab online bv accordingly, without prejudice to his own obligation immediately to take effective measures, such as changing the Password.
- 3.3 MediaLab online bv reserves the right to change the login procedure, the Password and/or the Username if it considers that necessary for any reason, for instance if that it is in the interest of the functioning of the Service. In that case the User will be informed by e-mail, at the e-mail address provided upon registration.

#### **Article 4**      **The Service**

- 4.1 This Agreement sets out further specifications regarding the Service. The Service will be provided on the basis of a best efforts obligation.
- 4.2 The requirements prescribed for use of the Service can be found on the [www.mlonline.nl](http://www.mlonline.nl) Website and may be amended by MediaLab online bv from time to time. They relate to e.g. browser type, version and settings, software, hardware and telecommunications. The costs of their purchase and/or use will be for the User's own account and risk. The User must furthermore at all times and at MediaLab online bv's first request cooperate in instructions from MediaLab online bv and/or provide information.
- 4.3 If MediaLab online bv has demonstrably and imputably failed to make a reasonable effort to provide the Service, the User's only legal remedy is (i) to demand that MediaLab online bv make a reasonable effort after all to provide the Service; or (ii) to terminate the Account on the grounds of Article 10.2 of these Conditions for Use.
- 4.4 All use of the Service is for the User's account and risk. MediaLab online bv is not liable for any loss of and/or damage to Content. MediaLab online bv does not guarantee that the Service is at all times accessible without any interruption or breakdown. Breakdowns in the Service may occur, for instance, but not exclusively, as a result of breakdowns in the Internet or telephone connection or as a result of viruses or errors/defects. MediaLab online bv is not in any manner responsible or liable towards the User for any loss resulting from or caused by the (whether or not temporary) inaccessibility or breakdown (or interim breakdown) of the Service.
- 4.5 MediaLab online bv will have the right, without any prior notification and without thereby becoming liable for damages towards the User, to render the Website and/or the Service (whether or not temporarily) inoperable and/or to limit its use if that is necessary in its opinion, for instance in the context of reasonably required maintenance of the Website and/or Service.
- 4.6 MediaLab online bv will have the right, without any prior notification, to make procedural and technical changes and/or improvements to the Website and/or the Service, including updates on the Medialab.
- 4.7 MediaLab online bv will provide support regarding the Service and/or Medialab only if and insofar as that has been agreed in the Agreement.

#### **Article 5**      **Content**

- 5.1 The User is aware and accepts that MediaLab online bv has no knowledge of the Content that is created and made available by the User by means of the Service. MediaLab online bv does not inspect and/or edit the Content and is not required to do so. The User himself is fully responsible and liable for all acts that he performs by means of the Service, in particular placing, processing, providing and distributing the Content via the Medialab.
- 5.2 The User warrants that he has the right to make the Content available and to distribute it via the Medialab. The User warrants that he owns the Intellectual Property Rights in respect of the Content placed or has obtained the required permission and/or licences to make the Content available via the Medialab. The User furthermore warrants that he has permission from any persons whose portrait and/or name is used in the Content, all of this insofar as the User is required to do so by law.

- 5.3 The User guarantees that he will not make any Content available via the Medialab:
- a. that infringes the rights of MediaLab online bv or third parties, including but not limited to Intellectual Property Rights or rights regarding the protection of privacy;
  - b. that is discriminatory and/or insulting regarding appearance, race, religion, sex, culture or origin;
  - c. that incites violence against and/or harassment of another person or other persons;
  - d. that gives rise to or is the result of exploitation or abuse of other parties;
  - e. that contains child pornography or a link to child pornography;
  - f. in which personal data of minors are requested and/or in which personal data of other parties are made available;
  - g. that promotes or facilitates the perpetration of illegal activities;
  - h. that involves chain letters, junk mail or spam;
  - i. whereby Passwords or other information that can be traced to persons is requested for commercial or illegal purposes, or commercial purposes are otherwise envisaged;
  - j. that contains viruses, Trojan horses, worms, bots or other software that can damage an automated work or data, render the same unusable or inaccessible, or delete or appropriate the same, or that are aimed at circumventing technical protection measures of the Website and/or MediaLab online bv's computer systems;
  - k. that conflicts with any applicable legislation and regulations; or
  - l. that conflicts with other any provisions of these Conditions for Use.
- 5.4 Subject to the conditions imposed in these Conditions for Use, the User and/or its licensors will remain the owners of the copyright and other Intellectual Property Rights in respect of the Content (with the exception of the Medialab itself). The User acknowledges and agrees that by making the Content available to MediaLab online bv it automatically grants a free of cost, unencumbered, worldwide, non-exclusive licence to use, multiply, distribute and publish the Content insofar as that is necessary in order to provide the Service.
- 5.5 The licence referred to in Article 5.4 will end the moment the User and/or MediaLab online bv removes the Content in question from the Medialab or the Account is removed by the User and/or MediaLab online bv. The User acknowledges and appreciates that after removal of the Content and/or the Account Contacts may possibly continue to use the Content and/or may be able to place it on other Websites. MediaLab online bv is not responsible and/or liable for any use of Content by Contacts after it has been removed from the Website by the User or MediaLab online bv.
- 5.6 The User indemnifies MediaLab online bv against any and all loss and costs arising from and/or related to third-party claims based on the argument that the Content placed and made available by the User by means of the Service in any manner infringes third-party rights and/or is otherwise wrongful.
- 5.7 MediaLab online bv reserves the right, if it believes that there are grounds on which to do so, without any further notice and without becoming liable for damages, to remove Content or to close down an Account, in particular but not only in cases in which the User in MediaLab online bv's opinion violates this Article 5 or one of the other provisions of these Conditions for Use, without prejudice to MediaLab online bv's right to take further legal measures and/or its right to damages.

## **Article 6**      **Prices and payment**

- 6.1 The User may purchase the Service only against payment. The prices for the use of the Service are recorded in the Agreement. Unless otherwise expressly stated, all the prices stated are exclusive of VAT, other charges imposed by the authorities and administrative costs.
- 6.2 In the event of a periodical payment obligation, MediaLab online bv will have the right to adjust the applicable prices and rates in writing, while observing a notice period of at least three months. If the User does not wish to accept such an adjustment, he will have the right to terminate the Service and his Accounts within 30 days of the notification and as from the date on which the adjustment was to enter into force.
- 6.3 The parties will record in the Agreement the date or dates on which MediaLab online bv will charge the User the fee for the Services. The User will pay invoices in accordance with the payment conditions stated in the invoice. Absent a specific arrangement, the User will make payment within 30 days of the invoice date. The User will not have the right to set off or suspend a payment.
- 6.4 If the User fails to pay the amounts due in a timely manner, the User will owe the statutory commercial interest on the outstanding amount, without any demand or notice of default being required and without prejudice to MediaLab online bv's rights referred to in Article 11.4 of these Conditions for Use and/or its statutory rights. If amounts due remain unpaid for more than two months after the payment date, MediaLab online bv will in any event have the right to render the Account inoperable or terminate the Account until the amounts have been paid after all.
- 6.5 If the User fails to pay the claim after a demand or notice of default, MediaLab online bv may hand over the claim, in which case the User will be required, in addition to the total amount then due, to pay all the judicial and extrajudicial costs, including costs charged by external experts, in addition to the costs determined in court, without prejudice to MediaLab online bv's other rights under these Conditions for Use and/or the law. The User will furthermore owe the costs incurred by MediaLab online bv after a failed mediation if the User is ordered by judgment to pay all or part of the outstanding amount.

## **Article 7**      **Intellectual Property Rights**

- 7.1 The Intellectual Property Rights regarding the Website, the Service, the Database, the Medialab and the Know-How, including but not limited to the Intellectual Property Rights on the texts, pictures, design, photographs, software, audiovisual material and other materials (excluding the Content) are vested in MediaLab online bv or its licensors.
- 7.2 Subject to the conditions recorded in these Conditions for Use, MediaLab online bv grants the User a limited, personal, revocable, non-exclusive, not licensable/sublicensable and non-transferable right to use the Service in accordance with these Conditions for Use.
- 7.3 It is expressly not permitted to copy or publish the Website, the Service, the Database, the Medialab and the Know-How or to use them for direct or indirect commercial purposes or for any other purpose other than those recorded in these Conditions for Use, unless MediaLab online bv or the entitled party in question has given its prior, express, written consent.
- 7.4 It is not permitted to remove, render illegible, conceal or change notifications or statements regarding Intellectual Property Rights.

- 7.5 No part of these Conditions for Use is intended to transfer any Intellectual Property Rights to the User. The use that the User may make of the Service is limited to the use described in these Conditions for Use. The User may not perform any acts that may infringe the Intellectual Property Rights of MediaLab online bv and/or third parties, such as registering domain names, trademarks or Google Adwords search terms (keywords) that are similar or identical to any sign in respect of which MediaLab online bv owns any rights. The User acknowledges and accepts that any and all unauthorised use constitutes infringement of these Conditions for Use and the applicable legislation.

## **Article 8 Privacy**

- 8.1 In the context of the Service the User will provide MediaLab online bv with personal data within the meaning of the Personal Data Protection Act. MediaLab online bv will process and use those personal data only insofar as that is necessary in the context of the Service and will not make the personal data available to any third parties in any manner whatsoever, unless it is required to do so by law. The User indemnifies MediaLab online bv against any and all loss and costs arising from and/or related to third-party claims, on any ground whatsoever, regarding the processing of personal data, unless MediaLab online bv is exclusively to blame for a claim.
- 8.2 The User understands and acknowledges that the Username that it stated during the registration procedure will be placed in the Content published and that any personal data included in the Username will be made public. The User himself will be able to change his Username.

## **Article 9 Database**

- 9.1 The Database will be regarded as a database within the meaning of Article 1(a) of the *Databankenwet* (Dutch Databases Legal Protection Act). MediaLab online bv is the producer of the Database and therefore has the exclusive right to grant permission for (i) the retrieval or reuse of all or a substantial part of the Content of the Database from a qualitative or quantitative perspective, and (ii) the repeated and systematic retrieval or reuse of non-substantial parts of the Content of the Database from a qualitative or quantitative perspective, insofar as that conflicts with the normal operation of the Database or damages MediaLab online bv's rightful interests in an unjustifiable manner. The User may retrieve or reuse data from the Database only if and insofar as that is permitted under these Conditions for Use.

## **Article 10 Liability**

- 10.1 Any and all liability of MediaLab online bv on the grounds of breach, a wrongful act or on any other ground will be limited to the amount that is paid out in the case in question under MediaLab online bv's professional liability insurance, increased by the amount of the deductible that is not payable by the insurer in accordance with the policy conditions. On request, information will be provided on the professional liability insurance taken out by MediaLab online bv.
- 10.2 The only action that the User can take if he believes that he has incurred a loss is to cease the use of the Service and to terminate his Account.

- 10.3 However, the aforesaid limitation of liability is not intended to exclude MediaLab online bv's liability for intent and/or wilful recklessness on the part of MediaLab online bv itself and/or its executives.
- 10.4 MediaLab online bv accepts no liability whatsoever for the Content and therefore also not for any loss incurred by Users or third parties as a result of irregularities in the Content. The User indemnifies MediaLab online bv against all costs incurred by it in order to comply with a request, order and/or judgment pertaining to an injunction or order related to the Content.
- 10.5 The User indemnifies MediaLab online bv against any and all third-party claims on any ground whatsoever regarding the reimbursement of loss, costs or interests related to or arising from his use of the Service and/or any violation of these Conditions for Use and/or any other third-party rights.

#### **Article 11 Duration and termination**

- 11.1 The Agreement for the use of the Service is valid for a period of one year after its conclusion, unless the parties have otherwise agreed in writing in the Agreement. At the end of the initial term the Agreement will each time be automatically extended by a period of one year, unless one of the parties gives written notice of termination of the Agreement while observing a notice period of at least three months before the end of the initial or extended term.
- 11.2 The User will have the right to terminate the use of the Service with immediate effect in the interim in writing only insofar as that is expressly provided in these Conditions for Use.
- 11.3 If it believes that there are grounds on which to do so, MediaLab online bv may at any time cease and/or suspend the provision of the Service to the User without becoming liable towards the User.
- 11.4 In addition to the other remedies available to MediaLab online bv, MediaLab online bv may furthermore at any time, without stating any reasons and without any prior explanation, whether or not temporarily limit, suspend or terminate the User's activities related to the Service, temporarily or permanently terminate and/or remove the Account, issue a warning, terminate the Service or refuse to provide the Service to the User, in particular but not only if the User violates these Conditions for Use. MediaLab online bv will not in any manner be liable, or liable for damages, towards the User on that ground.
- 11.5 If the Agreement ends for any reason whatsoever, the User's right to use the Service will end immediately and the access to the Service will be terminated immediately. If the Agreement ends for any reason whatsoever, MediaLab online bv will immediately remove the Account, including the Content related to the Account. MediaLab online bv will not be required after termination to make any information, material and/or Content available to the User and/or to convert the same. If the Agreement ends for any reason whatsoever, MediaLab online bv will not in any manner be liable, or liable for damages, towards the User or otherwise required to pay the User any financial compensation, in any event including any prices and/or fees already paid for the Service.

## **12 Report**

- 12.1 In order to end violation of third-party rights as quickly as possible, MediaLab online bv has developed a procedure by means of which the presence on the Website and/or in the Content of allegedly wrongful material can be reported to MediaLab online bv by sending an email to support@mlonline.nl
- 12.2 MediaLab online bv is not liable for any loss related to wrongful use of the Website or the Service. On the conditions stated below, MediaLab online bv will merely be required after receipt of a Report to remove any manifestly wrongful material.
- 12.3 MediaLab online bv will be liable only if it fails to block the material in question or terminate the wrongful activity even though it has actual knowledge by means of the Report of the fact that the material or the activity is manifestly wrongful.
- 12.4 MediaLab online bv reserves the right not to comply with a request to block material or terminate an activity if it has a valid reason to doubt the correctness of the Report or the lawfulness of the evidence provided, or a weighing of interest so requires of it. In that context, for instance, MediaLab online bv may demand a judgment passed by a competent court in the Netherlands, from which judgment it is apparent that the material in question is manifestly wrongful.
- 12.5 MediaLab online bv will not in any manner be a party to a dispute between a User and a third party filing a Report.
- 12.6 If the User files a Report, he indemnifies MediaLab online bv and all its affiliated companies, as well as its Board of Directors, Directors, employees, representatives and legal successors, against any and all third-party claims related to the blocking or removal of material. The indemnification also relates to all loss and costs that MediaLab online bv has incurred or may yet incur in connection with such a claim, including but not limited to the reimbursement of costs of legal assistance.
- 12.7 MediaLab online bv respect and protects the privacy of third parties that file Reports. All the personal information made available to it in the context of a Report will at all times be handled confidentially and will be used only in the handling of the Report.

## **Article 13 Miscellaneous provisions, governing law and competent court**

- 13.1 These Conditions for Use and the use of the Service are governed by Dutch law.
- 13.2 Except insofar as otherwise prescribed by mandatory national or international rules of law, any and all disputes between the User and MediaLab online bv will be submitted at the option of the summoning of requesting party to the competent court in the district of its place of residence, or to another competent court that has jurisdiction on the grounds of national or international rules of law.
- 13.3 If these Conditions for Use are or become partially invalid, the User and MediaLab online bv will still be bound by the remaining part. MediaLab online bv will replace the invalid part with provisions that are valid and whose legal consequences, in light of the content and scope of these Conditions for Use, are as similar as possible to those of the invalid part.
- 13.4 MediaLab online bv may transfer rights and obligations arising from these Conditions for Use to third parties and must inform the User accordingly. If the User considers such transfer of

obligations to a third party unacceptable, he may terminate the use of the Service and terminate the Account.

- 13.5 For questions regarding the Service, the Website and/or the Medialab, or these Conditions for Use, the User may contact MediaLab online by during office hours via the following contact details:

MediaLab online bv  
Schurenbergweg 9c  
1105 AP Amsterdam Zuidoost  
T +31 20 494 24 24  
F +31 20 494 25 25  
[www.mlonline.nl](http://www.mlonline.nl)  
[support@mlonline.nl](mailto:support@mlonline.nl)

- 13.6 These Conditions for Use are governed by the following modules of the ICT-Office Conditions:
- General Module
  - Module 1 - Licence for software
  - Module 2 - Development of software
  - Module 3 - Maintenance of software
  - Module 4 - Application Service Provision, Software as a Service and Computer Service
  - Module 5 - Development and maintenance of a website
  - Module 6 - Web hosting - supplemental

The ICT-Office Conditions were filed with the Chamber of Commerce for Midden-Nederland under number 30174840 on 14 January 2009.

MediaLab online bv in no event accepts the applicability of any general purchase or other conditions applied by the User.