Terms of Service

These Terms of Service govern all use of OfficeDrive, OfficeDrive's (including its licensors', suppliers' and partners') technology, all Contracts, and all Services (as defined further below). By accessing, receiving, and/or using the Services, You agree, without limitation or qualification, to be bound by and to comply with these Terms of Service and any other posted guidelines or rules required by OfficeDrive that are applicable to any other website where the Services are found. If you do not agree to any of the terms contained herein, You should cease to use or access the Services.

OFFICEDRIVE RESERVES THE RIGHT, AT ITS SOLE DISCRETION, TO ALTER OR UPDATE THESE TERMS OF SERVICE AND/OR THE SERVICES AT ANY TIME WITH OR WITHOUT NOTICE INCLUDING, WITHOUT LIMITATION, FEATURES, SPECIFICATIONS, CAPABILITIES, FUNCTIONS, LICENSING TERMS, RELEASE DATES, GENERAL AVAILABILITY OR OTHER CHARACTERISTICS. BY CONTINUING TO USE THE SERVICES AFTER ANY SUCH CHANGES, YOU AGREE TO BE BOUND BY SUBSEQUENT CHANGES AND ACKNOWLEDGE THAT OFFICEDRIVE SHALL HAVE NO LIABILITY TO YOU AS A RESULT OF ANY SUCH CHANGES.

1. Definitions.
1.1 "Account" means an OfficeDrive user profile created by You or for You and used to make selections with respect to the presentation, management, distribution and/or end user access to Content.
1.2 "Content" means any and all materials including, without limitation, text, images, logos, artwork, graphics, pictures, advertisements, sound and any intellectual property contained in any such materials provided by users which is uploaded or otherwise provided by, or viewed by, You and/or Your agents and/or Your users in connection with the Services.
1.3 "Contract" means an "OfficeDrive Services Agreement," "Services Agreement and Order Form," supplemental order form, and/or similar document(s) provided by OfficeDrive and/or its resellers which You have signed and/or an agreement to which You have agreed by way of clicking or signing to accept and/or a statement of work and/or other written agreement between You and OfficeDrive or its resellers or other authorized agents.
1.4 "Demo Account" means a temporary account provided to You by OfficeDrive or its resellers that permits a potential customer to use the Services on a trial basis for a limited time period, free of charge.
1.5 "OfficeDrive Fees" means all fees relating to any or all of the Services including, without limitation, all fees set forth in a Contract.
1.6 "Services" means any and all products and/or services that are provided and/or made available to You by or through OfficeDrive and/or its authorized resellers, partners, licensors and/or suppliers pursuant to a Contract or Demo Account, including but not limited to OfficeDrive, technical support, engineering work, and/or any other professional services.
1.7 "Term" and "Initial Term" have the meanings set forth in Section 4 of these Terms of Service.
1.8 "You" and "Your" means the individual, corporation or other entity which (i) has entered into a Contract, (ii) has received a demonstration account through OfficeDrive or one of its resellers, and/or (iii) otherwise uses the Services.

2. Grant of Licenses; Scope of License; Restrictions.
2.1 Grant of Licenses.
(a) Right to Use the Services. Provided You comply at all times with all terms and conditions of Your Contract(s) and these Terms of Service, OfficeDrive grants to You, during the Term specified in the Contract(s) or the limited time period specified for the Demo Account issued to You, a non-exclusive, non-transferable, revocable, limited license, without right of sublicense, to use the Services. For greater certainty, nothing herein permits You to use the Services without first obtaining the necessary rights and consents described herein and in any Contract.
(b) Content. You hereby grant OfficeDrive a worldwide, royalty-free, non-exclusive, transferable, license to perform such acts with respect to the Content solely as are reasonable or necessary to provide the Services including, without limitation, the right to: (i) deliver Content in accordance with the preferences You set using Your Account and any authorized subaccounts; (ii) secure, encode, reproduce, host, cache, route, reformat, analyze and create algorithms and reports based on access to and use of the Content; (iii) use, exhibit, broadcast, publish, publicly display, publicly perform, distribute, promote, copy, store, and/or reproduce (in any form) the Content on or through the Services; and (iv) utilize Content to test OfficeDrive’s internal technologies and processes.

2.2 Scope of Use.
(a) Responsibility for Content. You are solely responsible for all matters arising out of or in connection with the Content that You provide including, without limitation, ensuring that the Content does not include Prohibited Content and does not violate any third party rights, as further described therein and elsewhere in these Terms of Service.
(b) Content. OfficeDrive and the Services are passive conduits of the Content and OfficeDrive has no obligation to edit, review, monitor or oversee Content submitted, uploaded, distributed, retrieved, or viewed in connection with use of the Services, and OfficeDrive assumes no responsibility or liability relating thereto. You further acknowledge and agree that the Services and the Content provided by third parties may contain errors or omissions. Under no circumstances will OfficeDrive be liable in any way for any user or other third party Content, including, but not limited to, for any defamation, infringement, falsehoods, errors or omissions in any such Content, or for any loss or damage of any kind incurred as a result of the use or publication of any such content posted, delivered, emailed or otherwise transmitted via the Services. OfficeDrive does not guarantee that any Content will be to Your satisfaction. You acknowledge OfficeDrive is not responsible for preventing or identifying infringement of intellectual property rights or other violations associations with the Content, and OfficeDrive assumes no responsibility for screening or monitoring for possible (i) infringement or enforcing Your rights or third party rights with respect to Content, (ii) unlawful, inappropriate or unpermitted use, (iii) libel, falsehoods, errors or omissions contained in Content, or (iv) noncompliance with FCC or other governmental laws and/or regulations.
(c) Content Preservation and Disclosure. You expressly acknowledge and agree that OfficeDrive may preserve and store Content and may disclose Content solely if required to do so by law.
(d) Demonstration Accounts. At OfficeDrive’s discretion, You may receive a Demo Account which may include limited access to test certain features and functionality of the Services free of charge. OfficeDrive may suspend or terminate the Demo Account at any time with or without notice.
(e) Reporting. You hereby agree and acknowledge that data recorded and tracked by us or by our Service will be used as the sole basis for calculating payments and fees associated with your use of the Service. Determinations rendered by us in respect of any such disputes shall be final and binding. Any attempt by you (or by persons and/or machines associated with, or under your control or direction) to control, alter, change, modify, manipulate, influence or otherwise affect the generation of impressions so as to conflict in any way with this Agreement, or otherwise conflict with the functions of the Service, shall result in: (a) the immediate disqualification of the your OfficeDrive account from any future use of Service, and (b) the forfeiture of any and all unpaid payments to such disqualified
OfficeDrive account.

(f) **Up-Time Availability & Limited Remedy for Disruption of Services.** Excluding scheduled maintenance, as described below, and disruptions due to circumstances or events not within OfficeDrive's reasonable control such as, but not limited to, events related to Force Majeure or an unauthorized act of a third party, OfficeDrive guarantees that (i) the Service will be available to Partner, defined as communications, 99.5% of the time; (ii) the specific hardware, operating system, application software, and network equipment located and managed in OfficeDrive facilities and other points of presence utilized to deliver the Service will be available 99.5% of the time. Both parties acknowledge and agree that OfficeDrive is not responsible for slow performance when caused by low-performance enduser computers, low-bandwidth end user Internet connections and low-bandwidth connectivity from any Partners content servers.

3. **Fees/Taxes.**

In consideration of Your rights in and to the Services, You shall timely pay the OfficeDrive Fees designated in your Contract(s). OfficeDrive Fees not paid when due shall be subject to a late fee equal to the lesser of one and one half percent (1.5%) of the unpaid balance per month or the highest monthly rate permitted by applicable law. OfficeDrive may, with or without notice, suspend or terminate access to the Services if You are more than thirty (30) days delinquent in paying any portion of the OfficeDrive Fees. In the event that a Contract is terminated prior to the end of the Term for any reason other than an uncured material breach by OfficeDrive, all committed fees for the Term shall become immediately due and owing in full. After the Initial Term of a Contract or renewal thereof (as applicable), the OfficeDrive Fees shall be subject to OfficeDrive's standard pricing changes.

4. **Term and Termination.**

The term of a Demo Account shall be as determined by OfficeDrive in its sole discretion. The term of all Contracts shall be the initial committed term (the "Initial Term") and all renewals (collectively referred to herein as the "Term"). Either party can terminate the Contract effective as of the end of the then-current term by notifying the other party in writing or email at least thirty (30) days prior to the end of then-current term. Upon the termination of a Contract any reason, You shall immediately discontinue all use of the Services and OfficeDrive is not obligated to provide you with any Services. You may suspend or terminate a Contract if OfficeDrive materially breaches a term or condition of Your Contract, these Terms of Service; (b) based on any conduct that OfficeDrive believes is or may be directly or indirectly harmful to other users, to OfficeDrive or its suppliers (including their respective systems and/or the Services); (c) based on any conduct that OfficeDrive reasonably believes may be a violation of law, third party rights, and/or OfficeDrive's Prohibited Activities or restrictions on Prohibited Content, or repeated breaches thereof; and/or (d) in the event of any legal restriction imposed on You, OfficeDrive, and/or its suppliers with respect to provision of the Services. OfficeDrive's right to suspend or terminate Services as set forth in this Section shall not absolve You of any payment or indemnification obligations described herein or diminish any other remedy available to OfficeDrive or its partners/suppliers/resellers. All terms and conditions set forth herein that should by their nature survive termination (including without limitation all provisions relating to payment, intellectual property, ownership, and indemnification) in order to be
given full effect shall continue in full force and effect after any expiration or termination of the Contract(s).

5. Title and Ownership.
OfficeDrive and its suppliers and licensors own all right, title and interest in and to the Services including associated intellectual property rights under copyright, trade secret, patent, trademark and/or other applicable domestic and international laws. As between You and OfficeDrive, any and all trademarks that OfficeDrive uses in connection with the Services are owned by OfficeDrive and any goodwill associated with the use of such marks shall inure to the benefit of OfficeDrive. In no event shall the Services be deemed sold or assigned to You. Any and all rights not expressly granted by OfficeDrive are reserved to OfficeDrive and its suppliers and licensors. If You provide any feedback about the Services to OfficeDrive, OfficeDrive shall have the rights to freely use such feedback including to create derivative technologies and compilations based on or developed through or by using such feedback. You acknowledge and agree that (a) OfficeDrive is not subject to any confidentiality obligations in respect to the feedback, (b) the feedback is not confidential or proprietary information of You or any third party and You have all of the necessary rights to disclose the feedback to OfficeDrive, (c) OfficeDrive (including all of its successors and assigns and any successors and assigns of any of the OfficeDrive Offerings) may freely use, reproduce, publicize, license, distribute, and otherwise commercialize feedback in any OfficeDrive offerings, and (d) You are not entitled to receive any compensation or re-imbursement of any kind from OfficeDrive or any of the other users of the Services in respect of the feedback.

You represent and warrant that You are solely responsible and liable for: (i) obtaining all necessary consents, permissions, licenses and waivers from copyright owners; (ii) complying with all laws, rules and applicable regulations; (iii) any Prohibited Content; and (iv) abiding by all the terms of these Terms of Service.

7. Disclaimer of Warranties.
OfficeDrive makes no representation, warranty, or guarantee of the suitability for your purposes of the services or content you may retrieve by or through the services, that the use of the services shall be secure, uninterrupted or error-free, or that the services shall function properly in combination with any third party technology, hardware, software, systems or data. The services and any content retrieved by or through the services are provided "as is" and all conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, title, fitness for a particular purpose, or non-infringement are hereby disclaimed to the maximum extent permitted by applicable law. The services may be subject to interruption, limitations, delays, and other problems inherent in the use of internet applications and electronic communications and OfficeDrive is not responsible for any such delays, misdelivery, untimely delivery, delivery failures, or any other damage resulting from events beyond OfficeDrive ’s reasonable control. You understand and agree that any content or other material downloaded or otherwise obtained through the use of the services is done at your own discretion and risk and that you will be solely responsible for any damages to your computer system or loss of data that results in the download of such content or other material. Some jurisdictions do not allow the disclaimer of implied warranties. In such jurisdictions, the foregoing disclaimers may not apply to You insofar as they relate to implied warranties.

8. Indemnification.
You shall defend, indemnify and hold harmless OfficeDrive and its suppliers, licensors, partners, and resellers and their respective officers, employees, licensors, agents, and affiliates, and all successors in interest to the foregoing, from and against any and all third party claims, damages, costs and expenses (including reasonable attorneys' fees and litigation expenses) relating to, arising out of, or in connection with the Content and/or Your use (which includes use by Your employees, agents, customers, and users) of the Services otherwise than permitted herein, including but not limited to claims relating to, arising out of, or in connection with Prohibited Activities or Prohibited Content or Your breach of any of these Terms of Service and/or Your Contract(s), including but not limited to any of the representations or warranties in Section 6.

9. Limitation of Liability.
You expressly understand and agree that under no circumstances shall OfficeDrive or its suppliers, resellers, partners, or licensors or any of their successors in interest (collectively herein, "OfficeDrive") be liable to you or any user based on your or that user’s use or misuse of and/or reliance on the services or the content you retrieve by or through the services. To the maximum extent permitted by applicable law, in no event shall OfficeDrive be liable for any consequential, incidental, direct, indirect, special, punitive, or other damages whatsoever (including, without limitation,Damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss) arising out of these terms of service or the use of or inability to use the services or retrieve the content by or through the services, even if OfficeDrive has been advised of the possibility of such damages. Your exclusive remedy and OfficeDrive’s total aggregate liability relating to, arising out of, in connection with, or incidental to the services, the contract(s) and/or these terms of service for any reason shall be limited to the actual direct damages incurred by you up to the greater of the OfficeDrive fees for use of the services that you paid Directly to OfficeDrive in the twelve month period preceding the claim or one thousand euros (€1,000.00). Such limitation shall also apply with respect to damages incurred by reason of other services or goods received through or advertised on the services or received through any links provided in the services, as well as by reason of any information or advice received through or advertised on the services or received through any links provided in or through the services. Such limitation shall apply, without limitation, to the costs of procurement of substitute goods or services, lost profits, or lost data. In some jurisdictions, limitations of liability (or certain heads of liability) are not permitted. In such jurisdictions, the foregoing limitation may not apply to You.

10. Compliance With Laws; Government Restricted Rights.
The Services are of Dutch origin and users must comply with applicable national, provincial, federal, local and international laws relating to use of the Services.

11. Publicity and Marketing.
Neither You nor OfficeDrive will issue any press releases or make public statements relating to any purchase order, order form, or similar contract between You and OfficeDrive nor the relationship between You and OfficeDrive without the other party’s prior written approval, which shall not be unreasonably withheld. However, OfficeDrive shall be permitted to line-list You as a customer and use Your standard logo for OfficeDrive's promotional and marketing use until your use of the Services expires or otherwise terminates.

12. Governing Law; Dispute Resolution.
You understand and agree that the Contract(s) and these Terms of Service shall be governed by the laws of the Netherlands, without regard to conflict of law provisions. Any action or proceeding arising from or
relating to these Terms of Service may only be brought in the courts located in Rotterdam, The Netherlands and each party irrevocably submits to such exclusive jurisdiction and venue.

13. Interpretation.
In the event of any conflict between or among any Contract(s) executed by both You and OfficeDrive and these Terms of Service, the Contract shall control to the extent of such conflict and all other terms and conditions of each shall continue to remain in full force and effect.

These Terms of Service, the OfficeDrive Privacy Policy and any Contracts entered into with You are the complete and exclusive agreement between You and OfficeDrive with respect to its subject matter; provided, however, that if You accept or enter into a Contract or some other written agreement with OfficeDrive or its authorized agents (including its resellers) that expressly incorporates these Terms of Service by reference, then these Terms of Service shall be subject to such other agreement as set forth therein. If any provision of a Contract or these Terms of Service is held unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and such decision shall not affect the enforceability of such provision under other circumstances, or of the remaining provisions hereof under all circumstances. You and OfficeDrive are independent contractors, no joint venture, partnership, employment, agency or exclusive relationship exists between You and OfficeDrive as a result of these Terms of Service or Your use of the Services as authorized hereunder. A Contract may only be modified by written amendment signed by authorized representatives of both You and OfficeDrive. All waivers must be made in writing and the failure of You or OfficeDrive to enforce any right or provision in a Contract or in these Terms of Service shall not constitute a waiver of such right or provision. Any waiver on one occasion shall not imply or constitute a waiver on any other occasion. OfficeDrive shall not be responsible for any failure to perform, or delay in performing any of its obligations under a Contract or these Terms of Service to the extent that such a failure or delay results from force majeure causes beyond its control, such as acts of God or of the public enemy, acts of the government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, freight embargoes, strikes, civil commotion, or the like. If any part of these Terms of Service is held to be unlawful, void, or unenforceable, that part shall be deemed severed and shall not affect the validity and enforceability of the remaining provisions. You may not transfer or assign these Terms of Service or any rights or obligations hereunder, directly or indirectly, by operation of law or otherwise, without the prior written consent of OfficeDrive and any such assignment shall be null and void from the beginning. These Terms of Service shall inure to the benefit of and be binding upon OfficeDrive's or Your respective permitted successors and assigns.

If you have any questions about these Terms of Service or if you wish to provide any feedback with respect to the Services, please contact us at: legal@OfficeDrive.nl

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