

## **General Terms and Conditions of Thuiswinkel**

These General Terms and Conditions of the Dutch Thuiswinkel Organization (hereinafter: Thuiswinkel.org) were drawn up in consultation with the Consumers' Association within the framework of the Coordination Group Self-regulation Consultation (CZ) of the Social and Economic Council and will come into effect on 1 June 2014.

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## **Article 1 - Definitions**

In these conditions the following terms have the following meanings:

1. Additional agreement: an agreement whereby the consumer acquires products, digital content and / or services in connection with a distance contract and these goods, digital content and / or services are supplied by the entrepreneur or by a third party on the basis of a agreement between that third party and the entrepreneur;
2. Reflection period: the period within which the consumer can make use of his right of withdrawal;
3. Consumer: the natural person who does not act for purposes related to his trade, business, craft or professional activity;
4. Day: calendar day;
5. Digital content: data that is produced and delivered in digital form;
6. Duration agreement: an agreement that extends to the regular delivery of goods, services and / or digital content during a certain period;
7. Durable medium: any tool - including e-mail - that enables the consumer or entrepreneur to store information that is addressed to him personally in a way that will facilitate future consultation or use during a period that is geared to the purpose for which the information is intended, and which enables unaltered reproduction of the stored information;
8. Right of withdrawal: the option for the consumer to cancel the distance contract within the cooling-off period;
9. Entrepreneur: the natural or legal person who is a member of Thuiswinkel.org and who offers products, (access to) digital content and / or services to consumers from a distance;
10. Distance contract: an agreement concluded between the entrepreneur and the consumer within the framework of an organized system for distance sales of products, digital content and / or services, whereby until the conclusion of the agreement exclusively or partly use is made of one or more techniques for distance communication;
11. Model form for withdrawal: the European model form for withdrawal included in Appendix I of these conditions; Annex I does not need to be made available if the consumer does not have a right of withdrawal with regard to his order;
12. Technology for distance communication: means that can be used to conclude an agreement, without the consumer and entrepreneur having to be in the same room at the same time.

## **Article 2 - Identity of the entrepreneur**

Name of entrepreneur: Breath In Balanz B.V.

Acting under the name / names:

- Breath In Balanz B.V.

Business address:

Ceintuurbaan 74  
7941 LW Meppel

Telephone number: 06 251 14500

Accessibility:

Monday to Friday from 9 a.m. to 5 p.m.

Email address: [info@breathbalanz.com](mailto:info@breathbalanz.com)

Chamber of Commerce number: 61862347

VAT number: NL85252279B01

## **Article 3 - Applicability**

1. These general terms and conditions apply to every offer made by the entrepreneur and to every distance contract concluded between the entrepreneur and the consumer.
2. Before the distance contract is concluded, the text of these general terms and conditions will be made available to the consumer. If this is not reasonably possible, the entrepreneur will indicate, before the distance contract is concluded, how the general terms and conditions can be viewed at the entrepreneur and that they will be sent free of charge as soon as possible at the request of the consumer.
3. If the distance contract is concluded electronically, notwithstanding the previous paragraph and before the distance contract is concluded, the text of these general terms and conditions can be made available to the consumer electronically in such a way that they are consumer can be easily stored on a durable data carrier. If this is not reasonably possible, before the distance contract is concluded, it will be indicated where the general terms and conditions can be inspected electronically and that they will be sent free of charge at the request of the consumer electronically or otherwise.
4. In the event that specific product or service conditions apply in addition to these general terms and conditions, the second and third paragraphs apply mutatis mutandis and in the event of conflicting conditions, the consumer can always rely on the applicable provision that is most relevant to him. is favorable.

## **Article 4 - The offer**

1. If an offer has a limited period of validity or is made subject to conditions, this will be explicitly stated in the offer.
2. The offer contains a complete and accurate description of the products, digital content and / or services being offered. The description is sufficiently detailed to enable the consumer to make a proper assessment of the offer. If the entrepreneur uses images, these are a true representation of the products, services and / or digital content offered. Obvious mistakes or errors in the offer are not binding for the entrepreneur.
3. Each offer contains such information that it is clear to the consumer what rights and obligations are attached to accepting the offer.

## **Article 5 - The agreement**

1. Subject to the provisions of paragraph 4, the agreement is concluded at the time of acceptance by the consumer of the offer and compliance with the corresponding conditions.
2. If the consumer has accepted the offer electronically, the trader will immediately confirm receipt of the acceptance of the offer electronically. As long as the receipt of this acceptance has not been confirmed by the entrepreneur, the consumer can dissolve the agreement.
3. If the agreement is concluded electronically, the entrepreneur will take appropriate technical and organizational measures to secure the electronic transfer of data and he will ensure a safe web environment. If the consumer can pay electronically, the entrepreneur will take appropriate security measures.
4. The entrepreneur can - within legal frameworks - inform himself whether the consumer can meet his payment obligations, as well as all those facts and factors that are important for a responsible conclusion of the distance contract. If, on the basis of this investigation, the entrepreneur has good reasons not to enter into the agreement, he is entitled to refuse an order or request or to attach special conditions to the implementation.
5. At the latest upon delivery of the product, service or digital content to the consumer, the entrepreneur will send the following information, in writing or in such a way that it can be stored by the consumer in an accessible manner on a durable medium:
  - a. the visiting address of the business location of the entrepreneur where the consumer can go with complaints;
  - b. the conditions under which and the way in which the consumer can make use of the right of withdrawal, or a clear statement regarding the exclusion of the right of withdrawal;
  - c. information about guarantees and existing service after purchase;
  - d. the price, including all taxes on the product, service or digital content; insofar as applicable, the costs of delivery; and the method of payment, delivery or implementation of the distance contract;

- e. the requirements for terminating the agreement if the agreement has a duration of more than one year or is indefinite;
  - f. if the consumer has a right of withdrawal, the model withdrawal form.
6. In the event of an extended transaction, the provision in the previous paragraph only applies to the first delivery.

## **Article 6 - Right of withdrawal**

For products:

1. The consumer can dissolve an agreement regarding the purchase of a product without giving reasons during a reflection period of 14 days. The entrepreneur may ask the consumer about the reason for the withdrawal, but not oblige him to state his reason (s).
2. The reflection period referred to in paragraph 1 commences on the day after the consumer, or a third party designated by the consumer in advance, who is not the carrier, has received the product, or:
  - a. if the consumer has ordered several products in the same order: the day on which the consumer, or a third party designated by him, received the last product. The entrepreneur may, provided he has clearly informed the consumer about this prior to the ordering process, refuse an order for several products with different delivery times.
  - b. if the delivery of a product consists of several shipments or parts: the day on which the consumer, or a third party designated by him, received the last shipment or the last part;
  - c. in the case of contracts for regular delivery of products during a certain period: the day on which the consumer, or a third party designated by him, has received the first product.

For services and digital content that is not supplied on a tangible medium:

3. The consumer can dissolve a service agreement and an agreement for the supply of digital content that has not been delivered on a tangible medium within 14 days without giving reasons. The entrepreneur may ask the consumer about the reason for the withdrawal, but not oblige him to state his reason (s).
4. The reflection period referred to in paragraph 3 starts on the day following the conclusion of the agreement.

Extended reflection period for products, services and digital content that has not been delivered on a tangible medium when not informing about the right of withdrawal:

5. If the entrepreneur has not provided the consumer with the legally required information about the right of withdrawal or the model form for withdrawal, the reflection period will expire twelve months after the end of the original reflection period determined in accordance with the previous paragraphs of this article.
6. If the entrepreneur has provided the consumer with the information referred to in the previous paragraph within twelve months after the commencement date of the original reflection period, the reflection period will expire 14 days after the day on which the consumer received that information.

### **Article 7 - Obligations of the consumer during the reflection period**

1. During the reflection period, the consumer will handle the product and the packaging with care. He will only unpack or use the product to the extent necessary to determine the nature, characteristics and operation of the product. The starting point here is that the consumer may only handle and inspect the product as he would be allowed to do in a store.
2. The consumer is only liable for the depreciation of the product that is the result of a way of handling the product that goes beyond what is permitted in paragraph 1.
3. The consumer is not liable for a decrease in the value of the product if the entrepreneur has not provided him with all legally required information about the right of withdrawal before or at the conclusion of the agreement.

### **Article 8 - Exercise of the right of withdrawal by the consumer and costs thereof**

1. If the consumer makes use of his right of withdrawal, he must report this to the entrepreneur within the reflection period by means of the model withdrawal form or in another unambiguous manner.
2. As soon as possible, but within 14 days from the day following the notification referred to in paragraph 1, the consumer shall return the product or hand it over to (an authorized representative of) the entrepreneur. This is not necessary if the entrepreneur has offered to collect the product himself. In any case, the consumer has complied with the return period if he returns the product before the reflection period has expired.
3. The consumer returns the product with all accessories supplied, if reasonably possible in the original condition and packaging, and in accordance with the reasonable and clear instructions provided by the entrepreneur.
4. The risk and the burden of proof for the correct and timely exercise of the right of withdrawal lies with the consumer.
5. The consumer bears the direct costs of returning the product. If the entrepreneur has not reported that the consumer must bear these costs or if the entrepreneur indicates that he will bear the costs himself, the consumer does not have to bear the costs for return.
6. If the consumer withdraws after having first explicitly requested that the provision of the service or the supply of gas, water or electricity that have not been made ready for sale in a limited volume or specific quantity commence during the reflection period, the

consumer is the the entrepreneur owes an amount that is proportional to that part of the obligation that has been fulfilled by the entrepreneur at the time of withdrawal, compared to full compliance with the obligation.

7. The consumer does not bear any costs for the performance of services or the supply of water, gas or electricity that have not been made ready for sale in a limited volume or quantity, or for the supply of district heating, if:

the entrepreneur has not provided the consumer with the legally required information about the right of withdrawal, the cost reimbursement in the event of withdrawal or the model form for withdrawal, or;

b. the consumer has not explicitly requested the start of the execution of the service or the supply of gas, water, electricity or district heating during the reflection period.

8. The consumer does not bear any costs for the full or partial delivery of digital content not supplied on a tangible medium, if:

prior to delivery, he has not expressly agreed to commence compliance with the agreement before the end of the reflection period;

b. he has not acknowledged that he loses his right of withdrawal when giving his consent; or

c. the entrepreneur has failed to confirm this statement from the consumer.

9. If the consumer exercises his right of withdrawal, all additional agreements will be dissolved by operation of law.

## **Article 9 - Obligations of the entrepreneur in case of withdrawal**

1. If the entrepreneur makes the notification of withdrawal by the consumer electronically possible, he will immediately send a confirmation of receipt after receipt of this notification.

2. The entrepreneur will reimburse all payments made by the consumer, including any delivery costs charged by the entrepreneur for the returned product, immediately but within 14 days following the day on which the consumer notifies him of the withdrawal. Unless the entrepreneur offers to collect the product himself, he may wait to pay back until he has received the product or until the consumer demonstrates that he has returned the product, whichever is the earlier.

3. The entrepreneur uses the same payment method that the consumer has used for reimbursement, unless the consumer agrees to a different method. The reimbursement is free of charge for the consumer.

4. If the consumer has opted for a more expensive method of delivery than the cheapest standard delivery, the entrepreneur does not have to repay the additional costs for the more expensive method.

## **Article 10 - Exclusion of right of withdrawal**

The entrepreneur can exclude the following products and services from the right of withdrawal, but only if the entrepreneur has clearly stated this in the offer, at least in time for the conclusion of the agreement:

1. Products or services whose price is dependent on fluctuations in the financial market on which the entrepreneur has no influence and which may occur within the withdrawal period.
2. Agreements concluded during a public auction. A public auction is understood to mean a sales method in which products, digital content and / or services are offered by the entrepreneur to the consumer who is personally present or who is given the opportunity to be personally present at the auction, under the direction of an auctioneer, and where the successful bidder is obliged to purchase the products, digital content and / or services;
3. Service contracts, after full performance of the service, but only if:
  - a. the performance has started with the explicit prior consent of the consumer; and
  - b. the consumer has stated that he will lose his right of withdrawal as soon as the entrepreneur has fully performed the agreement;
4. Package travel as referred to in Article 7: 500 of the Dutch Civil Code and passenger transport contracts;
5. Service agreements for the provision of accommodation, if a specific date or period of execution is provided for in the agreement and other than for residential purposes, goods transport, car rental services and catering;
6. Agreements with regard to leisure activities, if a specific date or period of execution is provided for in the agreement;
7. Products manufactured according to the consumer's specifications, which are not prefabricated and which are manufactured on the basis of an individual choice or decision of the consumer, or which are clearly intended for a specific person;
8. Products that spoil quickly or have a limited shelf life;
9. Sealed products that are not suitable for return for reasons of health protection or hygiene and of which the seal has been broken after delivery;
10. Products that by their nature are irrevocably mixed with other products after delivery;
11. Alcoholic drinks, the price of which was agreed upon at the conclusion of the agreement, but the delivery of which can only take place after 30 days, and the actual value of which depends on fluctuations in the market over which the entrepreneur has no influence;
12. Sealed audio, video recordings and computer software, the seal of which has been broken after delivery;
13. Newspapers, magazines or magazines, with the exception of subscriptions to these;
14. The supply of digital content other than on a tangible medium, but only if:
  - a. the performance has started with the explicit prior consent of the consumer; and
  - b. the consumer has stated that he thereby loses his right of withdrawal.

## **Article 11 - The price**

1. During the period of validity stated in the offer, the prices of the products and / or services being offered will not be increased, except for price changes as a result of changes in VAT rates.
2. Contrary to the previous paragraph, the entrepreneur can offer products or services whose prices are subject to fluctuations in the financial market and over which the entrepreneur has no influence, at variable prices. This link to fluctuations and the fact that any stated prices are target prices are stated in the offer.
3. Price increases within 3 months after the conclusion of the agreement are only permitted if they are the result of statutory regulations or provisions.
4. Price increases from 3 months after the conclusion of the agreement are only permitted if the entrepreneur has stipulated this and:
  - a. these are the result of statutory regulations or provisions; or
  - b. the consumer has the authority to cancel the contract on the day on which the price increase takes effect.
5. The prices stated in the offer of products or services include VAT.

## **Article 12 - Compliance with the agreement and extra guarantee**

1. The entrepreneur guarantees that the products and / or services comply with the agreement, the specifications stated in the offer, the reasonable requirements of reliability and / or usability and the legal requirements existing on the date of the conclusion of the agreement. provisions and / or government regulations. If agreed, the entrepreneur also guarantees that the product is suitable for other than normal use.
2. An extra guarantee provided by the entrepreneur, his supplier, manufacturer or importer never limits the legal rights and claims that the consumer can assert against the entrepreneur on the basis of the agreement if the entrepreneur has failed to fulfill his part of the agreement.
3. An additional guarantee is understood to mean any obligation of the entrepreneur, his supplier, importer or producer in which he grants the consumer certain rights or claims that go beyond what he is legally obliged to do in the event that he has failed to fulfill his part of the the agreement.

## **Article 13 - Delivery and implementation**

1. The entrepreneur will take the greatest possible care when receiving and implementing orders for products and when assessing applications for the provision of services.
2. The place of delivery is the address that the consumer makes known to the entrepreneur.
3. With due observance of what is stated in article 4 of these general terms and conditions, the entrepreneur will execute accepted orders with due speed, but no later than 30 days, unless a different delivery period has been agreed. If delivery is delayed, or if an order cannot or only partially be executed, the consumer will be notified of this

no later than 30 days after placing the order. In that case, the consumer has the right to terminate the agreement without costs and is entitled to any compensation.

4. After dissolution in accordance with the previous paragraph, the entrepreneur will immediately repay the amount that the consumer has paid.

5. The risk of damage and / or loss of products rests with the entrepreneur until the moment of delivery to the consumer or a pre-designated and the entrepreneur announced representative, unless explicitly agreed otherwise.

#### **Article 14 - Duration transactions: duration, cancellation and extension**

Cancellation:

1. The consumer can terminate an agreement that has been entered into for an indefinite period and that extends to the regular delivery of products (including electricity) or services, at any time with due observance of the agreed cancellation rules and a notice period of no more than one month.

2. The consumer can terminate an agreement that has been entered into for a definite period and that extends to the regular delivery of products (including electricity) or services, at any time by the end of the specified term, with due observance of the agreed cancellation rules and a notice period of no more than one month.

3. The consumer can cancel the agreements mentioned in the previous paragraphs:

a. cancel at any time and not be limited to cancellation at a specific time or in a specific period;

b. at least cancel in the same way as they entered into by him;

c. always cancel with the same notice period as the entrepreneur has stipulated for himself.

Elongation:

4. An agreement that has been entered into for a definite period and that extends to the regular delivery of products (including electricity) or services may not be tacitly renewed or renewed for a specified period.

5. Contrary to the previous paragraph, an agreement that has been entered into for a definite period and that extends to the regular delivery of daily news and weekly newspapers and magazines may be tacitly renewed for a fixed period of a maximum of three months, if the consumer has extended this. can cancel the agreement towards the end of the extension with a notice period of no more than one month.

6. An agreement that has been entered into for a definite period and that extends to the regular delivery of products or services may only be tacitly renewed for an indefinite period if the consumer may cancel at any time with a notice period of no more than one month. The notice period is no more than three months in the event that the agreement extends to the regular, but less than once a month, delivery of daily, news and weekly newspapers and magazines.

7. An agreement with a limited duration for the regular delivery of daily, news and weekly newspapers and magazines (trial or introductory subscription) will not be tacitly continued and will end automatically after the trial or introductory period.

Expensive:

8. If an agreement has a duration of more than one year, the consumer may cancel the agreement at any time after one year with a notice period of no more than one month, unless reasonableness and fairness oppose termination before the end of the agreed duration. to oppose.

### **Article 15 - Payment**

1. Unless otherwise stipulated in the agreement or additional conditions, the amounts owed by the consumer must be paid within 14 days after the start of the reflection period, or in the absence of a reflection period within 14 days after the conclusion of the agreement. In the case of an agreement to provide a service, this period starts on the day after the consumer has received confirmation of the agreement.

2. When selling products to consumers, the consumer may never be obliged in general terms and conditions to pay more than 50% in advance. When prepayment has been stipulated, the consumer cannot assert any rights whatsoever with regard to the execution of the order or service (s) before the stipulated prepayment has been made.

3. The consumer has the duty to report inaccuracies in provided or stated payment details to the entrepreneur without delay.

4. If the consumer does not fulfill his payment obligation (s) on time, after he has been informed by the entrepreneur of the late payment and the entrepreneur has granted the consumer a period of 14 days to still fulfill his payment obligations, after non-payment within this 14-day period, the statutory interest is due on the amount still due and the entrepreneur is entitled to charge the extrajudicial collection costs incurred by him. These collection costs amount to a maximum of: 15% on outstanding amounts up to € 2,500; 10% over the next € 2,500 and 5% over the next € 5,000 with a minimum of € 40. The entrepreneur can deviate from the stated amounts and percentages in favor of the consumer.

### **Article 16 - Complaints procedure**

1. The entrepreneur has a well-publicized complaints procedure and handles complaints in accordance with this complaints procedure.

2. Complaints about the implementation of the agreement must be submitted fully and clearly described to the entrepreneur within a reasonable time after the consumer has discovered the defects.

3. Complaints submitted to the entrepreneur will be answered within a period of 14 days from the date of receipt. If a complaint requires a foreseeable longer processing time, the entrepreneur will reply within 14 days with a confirmation of receipt and an indication when the consumer can expect a more detailed answer.

4. A complaint about a product, service or the entrepreneur's service can also be submitted via a complaints form on the consumer page of the Thuiswinkel.org website [www.thuiswinkel.org](http://www.thuiswinkel.org). The complaint will then be sent to both the relevant entrepreneur and Thuiswinkel.org.

5. The consumer must in any case give the entrepreneur 4 weeks to resolve the complaint by mutual agreement. After this period, a dispute arises that is subject to the dispute settlement procedure.

## **Article 17 - Disputes**

1. Contracts between the entrepreneur and the consumer to which these general terms and conditions apply are exclusively governed by Dutch law.

2. Disputes between the consumer and the entrepreneur about the conclusion or performance of agreements with regard to products and services to be delivered or delivered by this entrepreneur can, with due observance of the provisions below, be submitted by both the consumer and the entrepreneur to the Thuiswinkel Disputes Committee, PO Box 90600, 2509 LP in The Hague ([www.sgc.nl](http://www.sgc.nl)).

3. A dispute will only be handled by the Disputes Committee if the consumer has first submitted his complaint to the entrepreneur within a reasonable time.

4. If the complaint does not lead to a solution, the dispute must be submitted to the Disputes Committee in writing or in another form to be determined by the Committee no later than 12 months after the date on which the consumer submitted the complaint to the entrepreneur.

5. If the consumer wishes to submit a dispute to the Disputes Committee, the entrepreneur is bound by this choice. Preferably, the consumer first reports this to the entrepreneur.

6. If the entrepreneur wants to submit a dispute to the Disputes Committee, the consumer will have to state in writing within five weeks after a written request made by the entrepreneur whether he wishes to do so or whether he wants the dispute to be handled by the authorized person to do so. judge. If the entrepreneur does not hear of the consumer's choice within the period of five weeks, the entrepreneur is entitled to submit the dispute to the competent court.

7. The Disputes Committee makes a decision under the conditions as laid down in the regulations of the Disputes Committee ([www.degeschillencommissie.nl/over-ons/de-commissies/2404/thuiswinkel](http://www.degeschillencommissie.nl/over-ons/de-commissies/2404/thuiswinkel)). The decisions of the Disputes Committee are made by way of binding advice.

8. The Disputes Committee will not deal with a dispute or will discontinue the proceedings if the entrepreneur has been granted a moratorium, has become bankrupt or has actually terminated its business activities before a dispute has been dealt with by the committee at the hearing and a final decision has been made.

9. If, in addition to the Thuiswinkel Disputes Committee, another disputes committee recognized or affiliated with the Consumer Disputes Committee Foundation (SGC) or the Financial Services Complaints Institute (Kifid) is competent, the Thuiswinkel Disputes Committee is responsible for disputes mainly concerning the method of remote sales or services. preferred competent. For all other disputes the other recognized disputes committee affiliated with SGC or Kifid.

## **Article 18 - Industry guarantee**

1. Thuiswinkel.org guarantees compliance with the binding advice of the Thuiswinkel Disputes Committee by its members, unless the member decides to submit the binding advice to the court for review within two months after it was sent. This guarantee is revived if the binding advice has been upheld after a court review and the judgment proving this has become final. Up to a maximum amount of € 10,000 per binding advice, this amount will be paid by Thuiswinkel.org to the consumer. For amounts greater than € 10,000 per binding advice, € 10,000 will be paid. For the excess, Thuiswinkel.org has a best efforts obligation to ensure that the member complies with the binding advice.

2. Application of this guarantee requires that the consumer makes a written appeal to Thuiswinkel.org and that he transfers his claim against the entrepreneur to Thuiswinkel.org. If the claim against the entrepreneur is more than € 10,000, the consumer is offered to transfer his claim to Thuiswinkel.org in so far as it exceeds the amount of € 10,000, after which this organization will make the payment in its own name and costs. will ask for this in court to satisfy the consumer.

## **Article 19 - Additional or deviating provisions**

Additional provisions or provisions deviating from these general terms and conditions may not be to the detriment of the consumer and must be recorded in writing or in such a way that they can be stored by the consumer in an accessible manner on a durable data carrier.

## **Article 20 - Amendments to the General Terms and Conditions of Thuiswinkel**

1. Thuiswinkel.org will not change these general terms and conditions other than in consultation with the Consumers' Association.

2. Changes to these terms and conditions are only effective after they have been published in an appropriate manner, on the understanding that in the event of applicable changes during the term of an offer, the provision most favorable to the consumer will prevail.

Thuiswinkel.org  
www.thuiswinkel.org  
Horaplantsoen 20, 6717 LT Ede  
PO Box 7001, 6710 CB Ede

## Appendix I: Model form for withdrawal

Model withdrawal form

(only complete and return this form if you wish to cancel the contract)

- a. To: [name of entrepreneur]  
[geographic address of the entrepreneur]  
[fax number entrepreneur, if available]  
[e-mail address or electronic address of the entrepreneur]
- b. I / We \* share / share \* hereby inform you that I / we \* regarding our agreement  
the sale of the following products: [product description] \*  
the delivery of the following digital content: [indication of digital content] \*  
the provision of the following service: [specification of service] \*,  
revoked / revoked \*
- c. Ordered on \* / received on \* [date of order for services or receipt for products]
- d. [Name of consumer (s)]
- e. [Address of consumer (s)]
- f. [Signature of consumer (s)] (only if this form is submitted on paper)

\* Delete what does not apply or fill in what applies.