

## GENERAL TERMS AND CONDITIONS USE LICENCE FOR THE DO NOT CALL ME LIST

### Introduction

For the purposes of these conditions, the following definitions shall apply:

- Subscriber: any natural or legal person who makes use of an electronic communications service in the performance of an agreement concluded with a telecommunications operator;
- CLIENT: any natural or legal person wishing to carry out telemarketing activities for direct marketing purposes, either on its own behalf or as a Service Provider;
- Deduplication: the comparison of two lists in order to remove duplicates;
- “Do Not Call Me list”: the list containing the telephone numbers of subscribers who no longer wish to be contacted by telephone for direct marketing purposes, in accordance with Articles VI.111 to VI.115 of the Belgian Code of Economic Law;
- Use licence: a non-exclusive and conditional right of use of the telephone numbers included in the Do Not Call Me list;
- “DNCM” platform: the electronic platform managed by the non-profit association Do Not Call Me, on which SUBSCRIBERS can find information about their rights and the way to register on the Do Not Call Me list, and CLIENTS, within the framework of a granted use licence, obtain access to the Do Not Call Me list, allowing them to deduplicate their telemarketing databases;
- Do Not Call Me: the non-profit association Do Not Call Me (abbreviated DNCM VZW), Rue de la Fusée 50, 1130 Brussels, Belgium;
- Service Provider: any natural or legal person responsible, on behalf of a third party (advertiser), for carrying out the deduplication of a list intended for a telemarketing campaign. This includes, among others, contact centres acting on behalf of an advertiser, e-service providers responsible for preparing telemarketing lists on behalf of an advertiser, etc.;
- Website: [www.dncm.be](http://www.dncm.be)

### Orders

1. Any order and/or request for a use licence via the “DNCM” platform constitutes a formal, full and unconditional acceptance of these General Terms and Conditions, to the exclusion of any general or specific terms and conditions of the CLIENT.
2. Any deviation from this provision is only possible by means of a written document accepted and signed by both parties.

### “DNCM” -platform

3. Articles VI.111 to VI.114 and Articles XIV.78 and 81 of the Belgian Code of Economic Law require every telecommunications operator to manage a list containing the telephone numbers of their subscribers who no longer wish to be contacted for direct marketing purposes. The King may recognise an association responsible for managing a single list on behalf of all telecommunications operators.

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4. By Royal Decree, the non-profit organisation Do Not Call Me was recognised for the management of the licences of the Do Not Call Me list.
  5. Each CLIENT is required to use the Do Not Call Me list for the deduplication of its own direct marketing lists.
  6. In order to use the Do Not Call Me list, the CLIENT must accept these General Terms and Conditions.
  7. The granted use licence is non-exclusive and non-transferable. It is granted against payment. The applicable tariffs are available on the website. The telephone numbers included in the Do Not Call Me list may only be used within the framework of the granted licence.
  8. For the purposes of Regulation (EU) 2016/679 (General Data Protection Regulation – “GDPR”), it is expressly stipulated that:
    - DNCM VZW acts as data controller for the management, updating and security of the Do Not Call Me list;
    - the CLIENT acts as an independent data controller for the processing of its own calling databases and for the deduplication of those databases with the Do Not Call Me list;

DNCM VZW and the CLIENT are not joint controllers within the meaning of Article 26 GDPR;

DNCM VZW does not act as a processor within the meaning of Article 28 GDPR on behalf of the CLIENT;

Each party is independently responsible for compliance with its obligations under the GDPR.

### **Procedure**

9. In order to obtain access to the Do Not Call Me list:
  - the CLIENT must register its company on the website [www.dncm.be](http://www.dncm.be). In doing so, the CLIENT creates a login and password for each user. The login and password are strictly personal and confidential. The CLIENT undertakes to store them carefully and not to disclose them to third parties. DNCM VZW shall not be held liable in any event for loss, theft, disappearance or unauthorised use thereof. In such cases, the CLIENT undertakes to notify DNCM VZW as soon as possible in order to allow the immediate blocking of the licence.
  - the CLIENT must download the Google Authenticator App on his/her phone via the App Store and then scan the QR code when logging in to the DNCM account. The CLIENT must then follow the instructions on the website. The QR code on the DNCM website can only be scanned once. A user account may therefore not be shared. Each time the CLIENT logs in, a six-digit code generated by the Google Authenticator App must be entered..
10. After acceptance of the General Terms and Conditions, DNCM VZW will issue the invoice. Access to the Do Not Call Me list will be activated after receipt of payment.

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## Licences

11. The price of the licence depends on the number of employees (either fewer than or equal to 250 employees, or more than 250 employees), as well as on the type of company:
  - **Advertiser:** the entity that wishes to approach consumers/companies with a campaign;
  - **Non-profit advertiser:** a non-profit organisation that wishes to approach consumers/companies with a campaign (fundraising, sale of items);
  - **Service Provider:** the entity that, on behalf of the advertiser, processes calling databases and/or carries out the calling campaign (call centre, data processing company).

If the CLIENT selects an incorrect type of company and/or provides an incorrect number of employees, DNCM VZW reserves the right to adjust the invoice.

## Use of the Do Not Call Me List Data

12. The CLIENT undertakes to use the Do Not Call Me list exclusively for the specific and sole purpose of excluding telephone numbers of subscribers registered on the list from its own calling databases, within the framework of telephone-based direct marketing.

This use is strictly limited to deduplication prior to a specific telemarketing campaign and may not result in any other form of processing such as, but not limited to, analysis, enrichment, reuse or resale.

Any other use, whether direct or indirect, is expressly prohibited.

13. Deduplication constitutes a processing of personal data as referred to in Article 4(2) GDPR, in particular through the comparison of telephone numbers.

The CLIENT declares and warrants that this processing:

- is based on a valid legal ground in accordance with Article 6 GDPR;
- is proportionate and limited to what is strictly necessary for the intended purpose;
- is included in the CLIENT's internal record of processing activities in accordance with Article 30 GDPR.

14. The CLIENT commits not to transfer the Do Not Call Me list, either in whole or in part, to third parties, nor to grant third parties access to the list in any manner whatsoever.
15. The CLIENT also commits to take all appropriate technical and organisational measures to ensure the security of the Do Not Call Me list, to prevent any incorrect use or unauthorised disclosure thereof, and to destroy the list after use.
16. The CLIENT commits to immediately inform DNCM VZW of any disclosure of the Do Not Call Me list to third parties or of any incorrect use thereof by third parties of which it becomes aware.
17. The CLIENT commits to use the Do Not Call Me list within five (5) working days following its download. After this period, the CLIENT commits to download a new, updated version of the list.

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18. The transfer or processing of the Do Not Call Me list outside the European Economic Area is in principle prohibited, unless:
- the CLIENT demonstrates compliance with Articles 44 to 49 GDPR;
  - appropriate supplementary measures are taken in light of the case law of the Court of Justice of the European Union (Schrems II).

### **Misuse – Audits**

19. Where the CLIENT uses the DNCM file for third parties, the following conditions apply. DNCM VZW reserves the right to monitor the use made of the various licences. The CLIENT undertakes to cooperate with any investigation carried out by DNCM VZW or by a third party authorised by it, by granting access to all information requested in connection with the investigation, in particular by granting access to its offices, machines, programs or files, and by allowing copies to be made where necessary.

Random audits will be notified to the CLIENT three (3) working days in advance.

Audits carried out following a suspicion of irregularity or fraud will not be notified in advance. Where an irregularity is established, the costs of the audit shall be borne by the CLIENT, without prejudice to any fines or sanctions that may be imposed by supervisory authorities.

20. Any unauthorised use of the Do Not Call Me list by the CLIENT, on its behalf or by the Service Provider, shall give rise to compensation payable to Do Not Call Me VZW. “Unauthorised use” includes, but is not limited to, use of the list for purposes other than those specified in these General Terms and Conditions, disclosure of the list to a third party without a valid use licence, or use of a licence without complying with its conditions.
21. Any unauthorised use of the Do Not Call Me list will also be reported to the telecommunications operators that have authorised Do Not Call Me VZW to manage the Do Not Call Me platform, as well as to the competent supervisory authorities, so that appropriate sanctions may be imposed.

### **Confidentiality**

22. DNCM VZW may not disclose to any third party, under any circumstances, the information obtained within the framework of the present use licence, without prejudice to the provisions relating to “unauthorised use” and without prejudice to its right to produce anonymous statistics concerning the use of the Do Not Call Me platform.
23. The foregoing paragraph shall not apply in the event of an audit carried out by a supervisory authority. Nor shall it apply to data that are part of the public domain, data already known to DNCM VZW prior to disclosure by the CLIENT, or data lawfully obtained by DNCM VZW from a third party not subject to similar confidentiality obligations.

### **Prices and payment**

24. The prices applicable to the licences are those listed on the website [www.dncm.be](http://www.dncm.be) at the time of conclusion of the agreement.
25. The prices mentioned above are exclusive of VAT. VAT and any other indirect taxes, of whatever nature, levied by any authority in connection with or as a result of the use of

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the Do Not Call Me platform, shall always be borne by the CLIENT and shall, where applicable, be payable in addition to the prices mentioned above.

26. Invoices issued by DNCM VZW must be paid by the CLIENT prior to activation of the licence, by bank transfer to the account number communicated by DNCM VZW. The CLIENT must send proof of payment by e-mail to the relevant contact person, after which the licence will be activated.
27. In the event of non-payment of an invoice, access to the Do Not Call Me list will not be activated for a new CLIENT or will be suspended upon renewal of a licence.
28. Any complaint relating to an invoice must be sent to DNCM VZW by registered letter within eight (8) days following the invoice date. The complaint must state the date and number of the invoice, as well as the reason for the dispute.

### **Warranty and Liability**

29. It is expressly agreed that, should the liability of DNCM VZW be engaged in connection with the granting of a licence, the compensation payable by DNCM VZW shall in no event exceed the annual amount invoiced by DNCM VZW to the CLIENT.
30. Any compensation for non-material damage, loss of opportunity to increase profit or loss of turnover is excluded, except in cases of gross negligence on the part of DNCM VZW.

### **Intellectual Property rights**

31. The rights relating to the Do Not Call Me list, including the rights granted to the producer of a database pursuant to the Belgian Act of 31 August 1998 on the legal protection of databases, are and shall remain the exclusive property of Do Not Call Me VZW.

### **Force majeure**

32. Neither party shall be liable for the total or partial non-performance of its obligations under the Agreement if such non-performance is wholly or partly due to a case of force majeure.
33. For the purposes of this article, force majeure shall include all external, unforeseeable and unavoidable events that render the performance of one or more obligations under these General Terms and Conditions impossible, such as natural disasters, wars, terrorism, strikes, shortages of raw materials or energy, power outages, network failures, or any other similar or unforeseeable event.
34. The obligations of the party invoking force majeure shall be suspended from the moment that party notifies the other party of the event within twenty-four (24) hours following its occurrence, provided that the reality of such an event can be demonstrated.
35. If the force majeure event lasts more than one (1) month from the notification, either party may, unless the parties agree to continue the General Terms and Conditions, terminate them by operation of law and without compensation, by simple notification to the other party.

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## **Duration, Suspension and Termination**

36. The licence agreement is concluded for the duration selected by the CLIENT.

For a CLIENT (advertiser), the licence duration may be one (1) year or one (1) month. For a CLIENT (non-profit advertiser or Service Provider), the licence duration is always one (1) year.

The monthly licence must be renewed month by month. DNCM VZW does not provide for automatic renewal.

**The annual licence is tacitly renewed** each year for a period of one year under the same conditions, **unless the CLIENT terminates it no later than one month before its expiry date**, by an e-mail to DNCM VZW or via termination through the CLIENT's dashboard..

DNCM VZW commits to inform the CLIENT no later than two months before the expiry date of the licence of the possibility to terminate the licence agreement and of the fact that, in the absence of a response within the period provided for in the General Terms and Conditions, the licence will be tacitly renewed.

Any amendment to the conditions in favour of the CLIENT (e.g. a price reduction) shall be considered a continuation of the licence under the same conditions and shall therefore not affect the possibility of tacit renewal.

37. Notwithstanding the foregoing, DNCM VZW may terminate the agreement prematurely, without prior notice of default and without any right to compensation for the CLIENT:

- In the event of non-compliance by the CLIENT with its obligations under the General Terms and Conditions or the licence agreement;
- in the event of misuse or suspected misuse of the Do Not Call Me list by the CLIENT;
- in the event of bankruptcy, manifest insolvency, application for suspension of payments, cessation of payments or activities, seizure or receivership of all or a substantial part of the CLIENT's assets, or judicial or voluntary liquidation of the CLIENT;
- in the event of a change in legislation affecting the Do Not Call Me list or recognition of another association responsible for maintaining a central list similar to the Do Not Call Me list, in accordance with Article 100/4 of the Belgian Act of 6 April 2010 on market practices and consumer protection.

38. Upon termination of the Agreement for any reason whatsoever, the CLIENT is required to destroy the Do Not Call Me list and to adequately document such destruction. DNCM ASBL may request proof of destruction. In the event of early termination of the licence for any reason during its term, no pro rata refund of fees shall be made to the CLIENT.

## **Applicable Law and Final Provisions**

39. These General Terms and Conditions are governed by and shall be interpreted in accordance with Belgian law.

40. Any dispute relating to the validity, interpretation, performance or termination of these General Terms and Conditions, as well as any agreements or subsequent acts arising therefrom, shall fall under the exclusive jurisdiction of the courts and tribunals of the judicial district of Brussels.