



## **GENERAL TERMS AND CONDITIONS USER LICENCE FOR THE 'DO NOT CALL ME' LIST**

### **Introduction**

The following definitions apply in these terms and conditions:

- **Subscriber:** any natural or legal person who uses an electronic communications service pursuant to a contract entered into with a telecoms operator;
- **CLIENT:** a natural or legal person who wishes to do telemarketing for direct marketing purposes, on its own behalf or as a Service Provider;
- **Removal of Duplicates:** comparison of two files in order to remove duplicates;
- **'Do Not Call Me' list:** file containing the telephone numbers of subscribers who do not wish to receive any telephone calls for direct marketing purposes;
- **User Licence:** non-exclusive and conditional user licence for the telephone numbers contained in the 'Do Not Call Me' list;
- **'DNCM' Platform:** digital platform where Subscribers can register for the 'Do Not Call Me' list, and which the Clients can use under their User Licence;
- **Do Not Call Me:** Do Not Call Me (DNCM) ASBL/VZW, Z.1 Research Park 120 - 1731 Zellik;
- **Service Provider:** Natural or legal person responsible for the Removal of Duplicates from a list destined for telemarketing purposes on behalf of a third-party (advertiser). These persons may include a call centre working on behalf of an advertiser or an IT services provider in charge of preparing the telemarketing list for an advertiser.
- **Website:** [www.dncm.be](http://www.dncm.be)

### **Orders**

1. An order placed on the 'DNCM' Platform implies formal acceptance of these General Terms & Conditions to the exclusion of the CLIENT/Service Provider's terms and conditions.
2. Exceptions to this provision are only possible by means of a formal document 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 oblige all telecoms operators to manage a list containing the telephone numbers of their subscribers who no longer wish to be contacted by telephone for direct marketing purposes. The Crown has the possibility to appoint one association with the task of managing a single list on behalf of all telecoms operators.
4. The non-profit association Do Not Call Me has been authorised by Royal Decree to manage the 'Do Not Call Me' list.
5. All Clients are obliged to use the 'Do Not Call Me' list for the Removal of Duplicates from their own direct marketing file.
6. To be able to use the 'Do Not Call Me' list, the CLIENT/Service Provider must enter into a licence contract with Do Not Call Me, by accepting the proposed price quotation and by accepting these General Terms & Conditions.



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7. The user licence granted is neither exclusive nor transferable. It is granted in return for a fee. The prices are available on the website. The telephone numbers contained in the 'Do Not Call Me' list may only be used within the scope of the licence granted.

### **Procedure**

8. To gain access to the 'Do Not Call Me' list, the CLIENT/Service Provider must register its company on the following website: [www.dncm.be](http://www.dncm.be). When registering, the CLIENT/Service Provider creates a login and a password. The login and password are strictly personal and confidential. The CLIENT/Service Provider undertakes to store these carefully and not to communicate them to third parties. Do Not Call Me cannot be held liable in the event of disappearance, loss, theft, or unauthorised use. In such cases, the CLIENT/Service Provider undertakes to inform DNCM as soon as possible in order to immediately block the licence.
9. Once the CLIENT/Service Provider is registered, DNCM will send a price quotation by e-mail, based on number of employees and revenue. The CLIENT/Service Provider may accept or reject this offer.
10. As soon as the price quotation has been accepted, DNCM will issue the invoice. Once payment has been received, access to the "Do Not Call Me" list will be activated.

### **Licences**

11. The fee for obtaining access to the list depends on the size and type of company:
- *Advertiser*: a company that wishes to contact consumers in a telephone campaign
  - *Service Provider*: a company that processes telephone lists and/or conducts a telephone campaign at the advertiser's request (call centre, data centre).

12. *Advertiser: SME or Large Businesses*

You are an SME if your company has fewer than 250 employees or generates revenue of a maximum of 50 million euros. The licence fee is €1,140 per year.

If your company has more than 250 employees or generates revenue of more than 50 million euros, the price is €3,750 per year.

*Service Provider: SME or Large Businesses*

You are an SME if your company has fewer than 50 employees or generates revenue of less than 5 million euros. The licence fee is €1,200 per year.

If your company has more than 50 employees or generates revenue of over 5 million euros, the price is €2,400 per year.

13. Overview of types of licences and their fees:

As an advertiser, you may opt for a one-year or one-month licence.

	<u>Advertiser</u>		<u>Service Provider</u>	
	<u>SME</u>	<u>Large Business</u>	<u>SME</u>	<u>Large Business</u>
Annual	€1,140	€3,750	€1,200	€2,400
Monthly	€99	n/a	n/a	n/a

The amounts stated do not include VAT.



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#### **Use of addresses/data**

14. The CLIENT/Service Provider undertakes to use the 'Do Not Call Me' list only for the purposes described in Articles 100 to 100/7 of the Law of 6 April 2010 on Market Practices and Consumer Protection, i.e. to exclude from its list of telephone numbers destined for direct marketing purposes all telephone numbers included in the 'Do Not Call Me' list. Under no circumstances whatsoever shall the CLIENT/Service Provider be allowed to make use of this List for other purposes,
15. The Removal of Duplicates using the 'Do Not Call Me' list shall be done exclusively by comparing telephone numbers.
16. The CLIENT undertakes not to transmit the 'Do Not Call Me' list, in whole or in part, or to give access to this List, in any manner whatsoever, to third parties.
17. The CLIENT/Service Provider also undertakes to take all technical and organisational measures necessary to ensure the security of the 'Do Not Call Me' list in order to avoid any undue use or disclosure thereof, and to destroy it after use.
18. The CLIENT/Service Provider undertakes to inform Do Not Call Me immediately if they become aware of any disclosure of the 'Do Not Call Me' list to third parties or unauthorised use of this List by third parties.
19. The CLIENT/Service Provider undertakes to use the 'Do Not Call Me' list within **5 working days** of downloading the List. After this period of 5 days has elapsed, it undertakes to download a new version of the List.

#### **Improper use - Checks**

20. Do Not Call Me reserves the right to check the use made of the different licences. The CLIENT and/or the Service Provider undertakes to cooperate in any investigation conducted by Do Not Call Me or by a third party it contracts for this purpose, by granting access to all the information requested for the investigation, in particular by allowing access to its offices, machines, programmes or files and by authorising the making of copies if necessary. The CLIENT and/or the Service Provider shall be notified 3 working days in advance of the inspections conducted ad-hoc. They shall not be notified in advance of inspections conducted following a suspicion of wrongdoing or fraud. In the case of suspicion of wrongdoing, the costs of the inspections shall be borne by the CLIENT and/or the Service Provider, without prejudice to any fines that may be imposed by the supervisory authorities.
21. Any unauthorised use of the 'Do Not Call Me' list by the Client or on its behalf or by the Service Provider shall be subject to the payment of compensation to Do Not Call Me. 'Unauthorised Use' of the 'Do Not Call Me' list shall be understood to mean use of the List for a purpose other than that mentioned in these General Terms & Conditions, transmission of the 'Do Not Call Me' list to a third party that does not have a user licence, or use of a licence without complying with the conditions for use.
22. Moreover, the telecoms operators that have entrusted Do Not Call Me with managing the 'Do Not Call Me' platform and the competent supervisory authorities shall be informed of any unauthorised use of the 'Do Not Call Me' list, so that they can impose the appropriate penalties.



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### **Confidentiality**

23. Do Not Call Me may not disclose, to any third parties whatsoever and under any circumstances whatsoever, the information obtained under the present licence contract, without prejudice to the provisions in the section on 'improper use' and without prejudice to its right to generate anonymous statistics on the use of the 'Do Not Call Me' platform.
24. The previous paragraph does not apply in the event of inspections conducted by a supervisory authority. Neither does it apply to data that belongs to the public domain, data already known to Do Not Call Me prior to its disclosure by the CLIENT or that was obtained legitimately by Do Not Call Me from a third party that is not bound by similar confidentiality obligations.

### **Price and payment**

25. The prices that apply to the licences are those indicated on the [www.dncm.be](http://www.dncm.be) website at the time of signing the contract.

Price overview:

	<u>Advertiser</u>		<u>Service Provider</u>	
	<u>SME</u>	<u>Large Business</u>	<u>SME</u>	<u>Large Business</u>
Annual	€1,140	€3,750	€1,200	€2,400
Monthly	€99	n/a	n/a	n/a

As an advertiser, you may opt for a one-year or one-month licence.

26. The aforementioned prices do not include VAT. VAT and other indirect taxes of any nature whatsoever, levied by a public authority at the time of or upon applying the use of the 'DNCM' Platform, will always be payable by the CLIENT/Service Provider and, where applicable, due over and above the aforementioned prices.
27. The invoices issued by Do Not Call Me must be paid by the CLIENT/Service Provider **before activating the licence**, by bank transfer to the bank account communicated by Do Not Call Me. The CLIENT/Service Provider must send **proof of payment** by email to the contact person. The licence will be activated as soon as the proof of payment and bank transfer have been received.
28. In the event of non-payment of the invoice, Do Not Call Me reserves the right not to activate your access to the 'Do Not Call Me' list.
29. Any complaint relating to an invoice must be addressed to Do Not Call Me by registered letter within 8 (eight) days from the date on the invoice. It must mention the date and invoice number as well as the reason for contesting the invoice.

### **Guarantee and liability**

30. It is expressly agreed that should the liability of Do Not Call Me be invoked with regard to the granting of a licence, the compensation due by Do Not Call Me shall under no circumstances exceed the annual amount invoiced by Do Not Call Me to the CLIENT/Service Provider.
31. Any compensation for immaterial damage, loss of future profits or revenue is ruled out, except in the event of gross misconduct by Do Not Call Me.

### **Intellectual property rights**

32. The rights relating to the 'Do Not Call Me' list, including the rights conferred on the database creator by virtue of the Law of 31 August 1998 on the legal protection of databases, are and shall remain the exclusive property of Do Not Call Me.

### **Force majeure**

33. None of the Parties will be liable for the non-performance, in whole or in part, of their obligations under the Contract, if this total or partial non-performance results from a case of force majeure (as defined hereinafter).
34. For the purposes of these articles, force majeure shall be deemed to be any external, unforeseen or insurmountable events that render the performance of one or more obligations under the Contract impossible, such as natural catastrophes, war, terrorism, strikes, a lack of raw materials, a lack of energy, power outages, network outages or any other similar or unpredictable events.
35. The obligations of the Party that invokes a case of force majeure are suspended from the date of notification of the other Party of this event, within twenty-four (24) hours of its occurrence, and on the condition that the Party concerned is able to prove the occurrence of such an event.
36. If the event constituting a case of force majeure should persist for more than one (1) month from the time of notification by the Party affected in accordance with the previous paragraph, unless the Parties agree to continue the Contract, either Party may terminate the Contract ipso jure and without penalty for the matters affected by the case of force majeure, after the expiry of the period of one (1) month referred to above, simply by notifying the other Party.

### **Duration, suspension and termination**

37. The licence contract is entered into for the duration selected by the CLIENT/Service Provider.
38. However, by way of derogation from the previous paragraph, Do Not Call Me may cancel the contract early with no prior formal notice and without the CLIENT/Service Provider being able to claim any compensation or interest:
- In the event that the CLIENT/Service Provider fails to comply with its obligations under the General Terms & Conditions or the licence contract (without prejudice to Do Not Call Me entitlement to claim compensation and interest)
  - In the event of improper use of the 'Do Not Call Me' list by the CLIENT/Service Provider, or a suspicion thereof.
  - In the event of bankruptcy, manifest insolvency, a request to postpone payment, suspension of payments, cessation of activity, seizure or receivership of all or a substantial part of the assets, liquidation (judicial or voluntary) of the CLIENT/Service Provider.
  - In the event of a change in legislation with an impact on the 'Do Not Call Me' list or in the event that another association is authorised to hold a centralised file similar to the 'Do Not Call Me' list, in accordance with the provisions of Article 100/4 of the Law of 6 April 2010 on market practices and consumer protection.



39. In the event of cancellation of the Contract for any reason whatsoever, the 'Do Not Call Me' list and all the data it contains shall be destroyed by the CLIENT/Service Provider, who will no longer be allowed to use them.

**Applicable law and competent jurisdiction**

40. The General Terms & Conditions are governed by and shall be interpreted in accordance with Belgian law.

41. Any legal dispute relating to the validity, interpretation, execution or cancellation of the General Terms & Conditions or any later contracts or transactions that may arise from them, shall be subject exclusively to the courts and tribunals of the judicial district of Brussels.