

General Conditions of Use of Gastronomixs.com

Version: May 2018

Article 1. Definitions and applicability

1. In these general terms and conditions, the following terms have the stated meaning, unless explicitly indicated otherwise.
 - **Gastronomixs:** 1) the online platform Gastronomixs, 2) trade name of Culiversum B.V., with its registered office at Laageinde 49, 5142 EE Waalwijk and listed in the Trade Register of the Chamber of Commerce under number 53994264;
 - **Website:** the website at the address www.gastronomixs.com, www.gastronomixs.nl, www.gastronomixs.be, www.gastronomixs.de, www.gastronomixs.ie and www.gastronomixs.co.uk;
 - **Service/service provision:** the provision of services by Gastronomixs, consisting of providing the online platform, the information on it, and related activities via the website;
 - **Agreement:** every agreement of Gastronomixs of purchase and sale and/or the provision of services;
 - **Subscription:** any agreement between Gastronomixs and the user based on which the services can be used;
 - **Group subscription:** a group of individual subscriptions taken out by an umbrella organisation for its members, for example at an association or training course. Unless indicated otherwise, all rights and obligations of users specified in these general terms and conditions also apply to the user whose subscription is part of such a group subscription, except for the payment obligations and termination options. These vest in the umbrella organisation;
 - **User:** the natural person or legal entity with whom or which a subscription is concluded or who or which has otherwise contracted with Gastronomixs, for example a purchase agreement.
2. These general terms and conditions apply to all Gastronomixs' agreements.
3. If the user registers or logs in for Gastronomixs' services, this is considered consent to the applicability and content of these general terms and conditions.
4. Deviations from these general terms and conditions are possible only if expressly agreed in writing. Gastronomixs expressly rejects the applicability of any general terms and conditions of the user.
5. If any provision of these general terms and conditions is void or annulled, the remaining provisions will remain fully in force and the void or annulled provisions of these general terms and conditions will be replaced by a new, legally permissible provision or provisions which observe(s) the aim and purpose of the void or annulled provision(s) as much as possible.
6. If Gastronomixs does not always require strict compliance with these terms and conditions, this does not mean their provisions do not apply or that Gastronomixs would forfeit the right to demand strict compliance with the provisions of these terms and conditions in other cases.
7. Gastronomixs may always make changes to these general terms and conditions. The version of the general terms and conditions that applied when the agreement was concluded will always apply, unless the user has accepted the validity of a revised version of the general terms and conditions since the agreement was concluded. The most recent version of the general terms and conditions can be consulted on the website.
8. If there is any discrepancy or conflict between these general terms and conditions and a translated version of them, the Dutch text will prevail.

Article 2. Service provision and website

1. Gastronomixs manages an online platform on the website consisting of a database of culinary content that users can read and/or print out for inspiration and preparation.
2. As Gastronomixs has only a facilitating role in all its services, it cannot in any way be held responsible for what happens between the user and another party, or for how the user uses the services.

3. Gastronomixs takes the greatest possible care with the content of the website. Some information on the website has been provided by third parties (users/Product Placers). Although Gastronomixs also carefully checks this information, it may still contain typing and other errors, inaccuracies etc. Gastronomixs is grateful for feedback from website users and/or visitors that enable it to make improvements, but is never liable for any damage of the users and/or visitors resulting from these typing and other errors, inaccuracies, etc.
4. The website refers to third-party websites. Gastronomixs has no control over these websites and their content, is not responsible for the content of these websites, and is not liable for any damage suffered by website users and/or visitors because of information provided on these third-party websites.
5. If necessary for maintenance or quality of the services, Gastronomixs is entitled to temporarily decommission the platform and/or the website, or to restrict their use, without this entitling the user to any compensation. This provision also applies if the platform/website is temporarily taken out of service without Gastronomixs' intervention.

Article 3. Use of service and rules of conduct

1. By sending the registration form, the user warrants that all data, including but not limited to name, address details, and e-mail address, provided within the framework of the services to Gastronomixs, are complete, accurate, and up to date. The user must ensure that the information in the user profile always corresponds to reality and is therefore accurate, complete, and up to date.
2. Users are not authorised to change their own e-mail address, as this also serves as their user name. If an e-mail address is outdated, the user may send an e-mail to Gastronomixs at support@gastronomixs.com and ask for the e-mail address to be changed.
3. By participating in or registering for services, users declare they are authorised or have consent for this purpose. This provision does not apply to users who use the services via a group subscription. In this latter case, Gastronomixs is not responsible for any inaccuracies or incompleteness in the personal data received from the umbrella organisation or whether or not this organisation is authorised to provide the personal data to Gastronomixs.
4. The data and information that the user obtains through the platform/website may be used only for the purpose for which they have been provided: the content inspires and motivates, and is for use in the private kitchen or kitchen of the restaurant where the user works. Without Gastronomixs' prior, written consent, the user may not use this content for purposes other than those described, such as commercial and/or educational purposes, or publish this content in any way. All forms of publication must also include the name of Gastronomixs and the author.
5. Although the user may also submit content, its placement is not guaranteed. Users are responsible for the accuracy, correctness, and completeness of the information and contributions they provide.
6. Gastronomixs reserves the right to shorten or alter user contributions. Gastronomixs may also refuse and/or remove contributions that are contrary to these general terms and conditions or irreconcilable with the purpose of Gastronomixs, without this entitling the user to any compensation.
7. The user warrants that:
 - the content of the contributions to be placed or that have been placed on their behalf is not contrary to Dutch laws and regulations or otherwise unlawful
 - they will not use their right of use to treat people unfairly or to harass them
 - they will not harm the interests and reputation of Gastronomixs The user states they will not misuse Gastronomixs' services.

Article 4. Term of subscription, cancellation/termination, and payment

1. You may try Gastronomixs free for two weeks by creating an account. When the free trial period is over, you will be given the opportunity to upgrade to a paid account and maintain full access. If you do not choose a paid account, you will retain only very limited access.

2. You may choose between a monthly or annual subscription. The monthly subscription is renewed for one month each time, unless the user cancels it. Payment for the monthly subscription is made by direct debit. An annual subscription is not automatically renewed. Payment for the annual subscription is a non-recurring payment. Notice of cancellation may be given at any time. If the user cancels the subscription, the subscription ends only at the end of the current contract period.
3. The user may cancel via their account page/account data. Confirmation of the subscription cancellation follows directly on the website.
4. Cancellation does not entitle the user to any refund of amounts already paid. During the contract period that is already paid, the user retains the full right to services.
5. A paid account gives access to the entire website. A user who uses only part of the website may never have a refund of all or part of a paid amount or another form of compensation.
6. Both parties may terminate the subscription immediately and without judicial intervention by a written declaration to the other party, if the other party is declared bankrupt or a petition for their bankruptcy has been filed, has petitioned for and/or been granted a moratorium on the payment of debts, or has otherwise lost the right to dispose of their assets.
7. Payment of the subscription is due in advance immediately when taken out or renewed each time. Payment is transferred electronically or made by direct debit. The subscription will not start or be renewed without payment.
8. If Gastronomixs is forced to take collection measures against a defaulting user, the collection costs will be payable by the user as follows:
 - (a) insofar as the user is not conducting a profession or business, Gastronomixs is entitled to an amount equal to the legally permitted maximum compensation for extrajudicial collection costs, as stipulated in and calculated under the Extrajudicial Collection Costs (Standards) Act (*Wet Incassokosten*), provided the outstanding amount – after the default occurs – is not paid within 14 days of the day following that of Gastronomixs' reminder.
 - (b) insofar as the user is conducting a profession or business, Gastronomixs is immediately entitled to reimbursement of the extrajudicial collection costs, with no prior notice, which in that case, notwithstanding Book 6, Article 96(4) of the Dutch Civil Code and the Extrajudicial Collection Costs (Fees) Decree (*Besluit vergoeding voor buitengerechtelijke incassokosten*), are already fixed at no less than 15% of the total outstanding principal sum, subject to a minimum of €250.00, for each unpaid or partially unpaid invoice. These costs include the costs of any collection agencies, bailiffs, and/or lawyers engaged.

Article 5. Suspension/exclusion of services, deletion of account

1. Gastronomixs may suspend all its obligations and services until the user has fulfilled its payment obligations towards Gastronomixs. This may include temporarily blocking an existing user account until the subscription fee for the next subscription period has been paid.
2. These general terms and conditions also include other obligations and several rules of conduct for the user. Gastronomixs may also exclude a user who acts contrary to these obligations and rules from further use of the services/website by cancelling or blocking the user's account. This does not affect Gastronomixs' right to claim fulfilment of outstanding payment obligations, compensation for any damage that Gastronomixs suffers because of the user's acts or omissions, to take further legal action, and – if necessary – to report the user's behaviour to the competent authority.

Article 6. Confidentiality/personal data

1. The parties must maintain secrecy of all confidential information they have obtained under their agreement from each other or another source. Information is deemed confidential if the other party has indicated this or if this follows from the nature of the information.

2. If Gastronomixs must provide, or also provide, confidential information based on a statutory provision or court ruling to third parties designated by law or the competent court, and it cannot claim privilege based on a statutory right or a right that is recognised or permitted by the competent court, Gastronomixs will not have to pay damages or compensation and the client may not terminate the agreement on any ground.
3. If you would like to know more about how Gastronomixs deals with personal data, read the privacy statement on [our website](#).

Article 7. Intellectual property

1. All intellectual property rights relating to Gastronomixs, including but not limited to the website, texts, images, design, databases, audio materials, and trademarks, vest in Gastronomixs and/or its licensors or clients. Without Gastronomixs' prior, written consent, the user may not reproduce, publish, and/or exploit these intellectual creations, with or without the involvement of third parties. If this provision is contravened, the user must compensate the damage suffered by Gastronomixs, notwithstanding all Gastronomixs' other rights.
2. The intellectual property rights relating to the content (recipes, photographs, texts, film clips, and other contributions) that have unmistakably been provided by the user or a third party, remain vested in the user or that third party. The user warrants that the content supplied does not infringe the copyright or any other intellectual property rights of third parties. The user is liable for any damage that Gastronomixs suffers because of such infringements and indemnifies Gastronomixs against these third-party claims.
3. If copyright, trading, or other rights are infringed in a published contribution, it is up to the aggrieved party to take action against the infringer(s) of their rights. Gastronomixs is outside of this, is therefore not a party, and plays no role in this regard.

Article 8. Force majeure

1. Gastronomixs need not fulfil any obligation if it is prevented from doing so by force majeure.
2. Besides what is understood in statute and case law, force majeure in these general terms and conditions means all external causes, whether foreseen or unforeseen, over which Gastronomixs can exercise no influence, but which prevent Gastronomixs from fulfilling its obligations.
3. Circumstances that constitute force majeure for Gastronomixs include war, riots, mobilisation, domestic and foreign disturbances, government measures, strikes within the organisation of Gastronomixs, operational failures, disruptions of the services or website due to fire, burglary, or sabotage, or because of electricity, internet or telephone connection failures or interruptions.

Article 9. Complaints

1. If the user has a complaint relating to Gastronomixs, the services, or the website, we request them to communicate their complaint in writing and substantiated as soon as possible after it arises to info@gastronomixs.com.
2. Lodging a complaint does not suspend the payment obligation.
3. Gastronomixs will respond within ten working days of receipt of the written complaint. If the complaint is well-founded, Gastronomixs will do everything possible to remedy the situation for the user, unless this cannot reasonably be expected of Gastronomixs under the circumstances.

Article 10. Liability

1. Gastronomixs is liable for direct damage only. In these general terms and conditions, direct damage means the costs that the user has reasonably had to incur to determine or remedy the damage, reasonable costs to prevent or limit such damage, and reasonable costs to determine its cause and extent.
2. Gastronomixs is never liable for indirect damage, including consequential damage such as loss of profits or savings, business interruption losses, and damage due to loss of data.
3. The user must implement all necessary measures to prevent or limit the damage.

4. If Gastronomixs is liable for damage, its liability is always limited to the amount paid by its insurer. If Gastronomixs' insurer will pay no amount or if the damage is not covered by the insurance that Gastronomixs has taken out, its liability is limited to the amount to which the agreement relates.
5. Notwithstanding the previous paragraph, Gastronomixs' liability for subscriptions lasting longer than three months is limited to the subscription fee payable for the last three months if the insurer does not pay or if the damage is not covered by the insurance that Gastronomixs has taken out.
6. Gastronomixs is not liable for damage of the user or third parties resulting from their circumvention of technical facilities relating to the website.
7. The user fully indemnifies Gastronomixs against all possible third-party claims arising in any way from and/or relating to the content the user has posted on the website. This includes any claim based on the assertion that posted content infringes any third-party intellectual property rights.
8. The limitations of liability in this article do not apply if the damage is due to intent and/or wilful recklessness by Gastronomixs or its managerial staff at board level, or if mandatory legal provisions dictate otherwise. Gastronomixs will indemnify the user against third-party claims in these cases only.
9. Claims for compensation expire one year from the day on which the user learnt or could reasonably have learnt of the damage and Gastronomixs' possible liability for that damage.

Article 11. Applicable law

1. Only Dutch law applies to Gastronomixs' agreements, services, and any related disputes. This choice of law does not affect the protection that a consumer (i.e. a natural person not conducting a profession or business) enjoys under the mandatory law of their place of residence.
2. Any disputes will be submitted to the competent court where Gastronomixs has its registered office, although Gastronomixs always reserves the right to submit a dispute to the competent court where the user has their place of residence or business.
3. If the user is a consumer (i.e. a natural person not conducting a profession or business), they may always submit the dispute to the competent Dutch court, provided the user gives Gastronomixs prompt notice of this choice. In this context, 'prompt' means within one month of Gastronomixs informing the user in writing that it wishes to submit the dispute to the court of the user's place of residence.
4. If the user is established outside the Netherlands, Gastronomixs may submit the dispute to the competent court in the country or state where the user has their place of business or residence.

These general user conditions were last amended on 23 May 2018.