

## **GENERAL TERMS AND CONDITIONS FOR SERVICE PROVIDERS (B2B)**

### **Article 1 - Definitions**

1. Xblox B.V. , established in Bergschenhoek, Chamber of Commerce number 61607118, is in these general conditions indicated as service provider.
2. The other party to the service provider is referred to in these general terms and conditions as the client.
3. The parties are service provider and client together.
4. Agreement means the agreement to provide services between the parties.

### **Article 2 - Applicability of general conditions**

1. These terms and conditions apply to all quotations, offers, work, agreements and deliveries of services or goods by or on behalf of service provider.
2. Deviations from these terms and conditions are only possible if this has been explicitly agreed in writing by the parties.
3. The agreement always contains effort obligations for service provider, not result obligations.

### **Article 3 - Payment**

1. Invoices must be paid within 30 days of the invoice date, unless the parties have made other arrangements in writing or a different payment term is stated on the invoice.
2. Payments shall be made without any appeal to suspension or set-off by transferring the amount due to the bank account number provided by service provider.
3. If the principal does not pay within the agreed period, he shall be in default by operation of law, without any reminder being required. From that moment onwards the service provider shall have the right to suspend his obligations until the principal has fulfilled his payment obligations.
4. If the principal remains in default, the service provider shall proceed to collect. The costs related to such recovery shall be borne by the principal. When client is in default he shall, in addition to the principal sum, owe statutory (commercial) interest, extrajudicial collection costs and other damages to the service provider. The collection costs shall be calculated in accordance with the Decree on compensation for extrajudicial collection costs (Besluit vergoeding voor buitengerechtelijke incassokosten).
5. In case of liquidation, bankruptcy, seizure or suspension of payment of the principal, the claims of service provider on the principal shall be immediately due and payable.
6. If the client refuses to cooperate with the execution of the order by the service provider, he is still obliged to pay the agreed price to the service provider.

### **Article 4 - Offers and quotations**

1. The offers of the service provider are valid for a maximum of 1 month, unless a different period for acceptance is mentioned in the offer. If the offer is not accepted within that period, the offer expires.
2. Delivery times in quotations are indicative and, if exceeded, do not entitle the client to dissolution or compensation, unless the parties have expressly agreed otherwise in writing.
3. Offers and quotations do not automatically apply to repeat orders. The parties must agree to this explicitly and in writing.

### **Article 5 - Prices**

1. The prices mentioned on offers, quotations and invoices of service provider are exclusive of VAT and any other government levies, unless explicitly stated otherwise.
2. The prices of goods shall be based on the cost prices known at the time. Increases thereof, which could not be foreseen by the service provider at the time of making the offer or entering into the agreement, may give rise to price increases.

3. With respect to the provision of services, the parties may agree on a fixed price at the time the agreement is entered into.
4. If no fixed price has been agreed, the rate for the provision of services may be determined on the basis of hours actually worked. The rate shall be calculated according to service provider's usual hourly rates, valid for the period in which he does the work, unless a different hourly rate has been agreed upon.
5. If no rate based on hours actually worked has been agreed, a recommended price for the services shall be agreed, with the service provider having the right to deviate therefrom by up to 10%. If the guide price is to be more than 10% higher, service provider shall timely inform customer why a higher price is justified. Client shall in that case have the right to cancel a part of the order that exceeds the recommended price increased by 10%.

#### **Article 6 - Price Indexation**

1. The prices and hourly wages agreed upon at the conclusion of the agreement shall be based on the price level prevailing at the time. Service Provider has the right to adjust the fees to be charged to Client annually as per 1 January.
2. Adjusted prices, rates and hourly wages will be communicated to Client as soon as possible.

#### **Article 7 - Provision of information by the client**

1. Client shall make available to service provider all information relevant to the execution of the order.
2. The client is obliged to provide all data and documents the service provider believes he needs to carry out the order correctly, in time and in the desired form and manner.
3. The client warrants the accuracy, completeness and reliability of the data and documents made available to the service provider, even if they originate from third parties, insofar as the nature of the assignment does not indicate otherwise.
4. Client shall indemnify service provider for any damage in whatever form resulting from failure to comply with the provisions of the first paragraph of this article.
5. If and insofar as the principal so requests, the service provider will return the documents concerned.
6. If the client does not provide the information and documents required by the service provider, or does not provide them on time or properly, and the execution of the assignment is delayed as a result, the resulting additional costs and additional fees will be charged to the client.

#### **Article 8 - Withdrawal of assignment**

1. The client is free to terminate the order to service provider at any time.
2. If the client withdraws the order, the client is obliged to pay the wages owed and the expenses incurred by the service provider.

#### **Article 9 - Execution of the Agreement**

1. Service Provider shall execute the agreement to the best of its knowledge and ability and in accordance with the requirements of good craftsmanship.
2. Service Provider has the right to have work performed by third parties.
3. Execution shall be by mutual agreement and after written approval and payment of any agreed advance.
4. It is the responsibility of the client to ensure that the service provider can start work on the assignment in a timely manner.

#### **Article 10 - Contract duration**

1. The agreement between the principal and the service provider is entered into for an indefinite period, unless the nature of the agreement dictates otherwise or if parties have explicitly agreed otherwise in writing.
2. If within the term of the agreement the parties have agreed on a period for completion of certain work, this shall never be a firm deadline. If this term is exceeded, the client must give service provider written notice of default.

#### **Article 11 - Modification of the agreement**

1. If during the execution of the agreement it appears that for a proper execution of the assignment it is necessary to change or supplement the work to be done, the parties shall adapt the agreement accordingly in good time and in mutual consultation.
2. If parties agree that the agreement will be amended or supplemented, this may affect the time of completion of the execution. Service provider will inform client of this as soon as possible.
3. If the amendment of or addition to the agreement has financial and/or qualitative consequences, service provider shall inform client in writing as soon as possible.
4. If the parties have agreed on a fixed fee, service provider shall indicate to what extent the change or supplement to the agreement will result in an increase of this fee.

#### **Article 12 - Force Majeure**

1. In addition to the provisions of Section 6:75 of the Dutch Civil Code, a failure of the service provider to perform any of his obligations to the client cannot be imputed to the service provider in the event of a circumstance independent of the will of the service provider, as a result of which the performance of his obligations to the client is wholly or partly impeded or as a result of which the performance of his obligations cannot reasonably be required of the service provider. Such circumstances shall include failure of suppliers or other third parties, power failures, computer viruses, strikes, bad weather conditions and work interruptions.
2. If a situation as referred to above arises as a result of which service provider cannot meet his obligations towards client, these obligations shall be suspended as long as service provider cannot meet his obligations. If the situation referred to in the preceding sentence has lasted 30 calendar days, the parties shall be entitled to dissolve the agreement in writing wholly or in part.
3. In the case referred to in the second paragraph of this article, Service Provider shall not be obliged to compensate any damage, even if Service Provider enjoys any benefit as a result of the force majeure situation.

#### **Article 13 - Settlement**

Client waives its right to set off a debt to Service Provider against a claim against Service Provider.

#### **Article 14 - Suspension**

Client waives the right to suspend performance of any obligation under this Agreement.

#### **Article 15 - Transfer of rights**

Rights of a party under this agreement cannot be transferred without the prior written consent of the other party. This provision shall be considered a clause with property law effect as referred to in Article 3:83, paragraph 2, of the Dutch Civil Code.

#### **Article 16 - Extinction of the claim**

Any right to compensation for damage caused by the service provider shall in any case lapse 12 months after the event from which the liability arose directly or indirectly. This does not exclude the provisions of article 6:89 of the Civil Code.

#### **Article 17 - Insurance**

1. Client undertakes to adequately insure and keep insured all goods delivered which are necessary for the execution of the underlying agreement, as well as goods of service provider present at client's premises and goods delivered under reservation of ownership, against amongst others fire, explosion and water damage as well as theft.
2. Client shall, upon first request, provide the policy of such insurance for inspection.

#### **Article 18 - Liability for damages**

1. Service Provider shall not be liable for any damages resulting from this Agreement unless Service Provider has caused the damages intentionally or with gross negligence.
2. In the event that service provider owes compensation to client, the compensation shall not exceed the fee.
3. Any liability for damage arising from or related to the performance of an agreement shall always be limited to the amount paid out in the case in question by the (professional) liability insurance policy or policies taken out. This amount shall be increased by the amount of the excess under the relevant policy.
4. The limitation of liability shall also apply if the service provider is held liable for damage resulting directly or indirectly from the improper functioning of the equipment, software, data files, registers or other items used by the service provider in the execution of the order.
5. Not excluded is the liability of service provider for damage resulting from intent or conscious recklessness of service provider, his managerial or subordinates.

#### **Article 19 - Liability of the principal**

If an order is given by more than one person, each of them shall be jointly and severally liable for the amounts owed to the service provider on account of that order.

#### **Article 20 - Indemnification**

The principal shall indemnify the service provider against all claims of third parties, related to the goods and/or services provided by the service provider.

#### **Article 21 - Duty to complain**

1. Client is obliged to immediately report complaints about the work done in writing to service provider. The complaint shall contain a description of the shortcoming that is as detailed as possible, so that service provider is able to respond adequately.
2. In any case, a complaint cannot lead to the obligation of service provider to perform other work than agreed upon.

#### **Article 22 - Reservation of ownership, right of suspension and right of retention**

1. The goods present at the principal's premises and the goods and parts delivered shall remain the property of the service provider until the principal has paid the entire agreed price. Until that time, service provider may invoke its retention of title and take back the goods.

2. If the agreed amounts to be paid in advance are not paid or not paid on time, the service provider is entitled to suspend the work until the agreed part is paid. In that case there is a question of creditor's default. In that case a late delivery cannot be held against the service provider.
3. Service Provider shall not be entitled to pledge or otherwise encumber the goods falling under its retention of title.
4. If goods have not yet been delivered, but the agreed advance payment or price has not been paid as agreed, the service provider has the right of retention. The goods shall then not be delivered until the principal has paid in full and in accordance with the agreement.
5. In case of liquidation, insolvency or suspension of payment of client, the obligations of client are immediately due and payable.

#### **Article 23 - Intellectual property**

1. Unless the parties have agreed otherwise in writing, service provider shall retain all intellectual absolute rights (including copyright, patent right, trademark right, drawings and models right, etc.) on all designs, drawings, writings, carriers with data or other information, quotations, images, sketches, models, scale models, etc.
2. The said intellectual absolute rights may not be copied, shown and/or made available to third parties or used in any other way without the written consent of service provider.
3. Client undertakes to keep confidential the confidential information made available to him by service provider. Confidential information shall in any case be taken to mean that which is covered by this article, as well as the company data. Principal undertakes to impose on his personnel and/or third parties involved in the execution of this agreement a written obligation of confidentiality with the scope of this provision.

#### **Article 24 - Secrecy**

1. Each of the Parties shall keep confidential the information received (in any form) from the other Party and any other information concerning the other Party which it knows or reasonably suspects to be secret or confidential, or information the dissemination of which it can foresee to be prejudicial to the other Party, and shall take all necessary measures to ensure that its personnel also keep the said information confidential.
2. The obligation of confidentiality mentioned in the first paragraph of this article does not apply to information:
  - a. which was already in the public domain at the time it was received by the recipient or subsequently became public without a breach by the receiving party of any duty of confidentiality owed to it;
  - b. which the receiving party can prove was already in its possession at the time of provision by the other party;
  - c. that the receiving party has received from a third party where that third party was entitled to disclose that information to the receiving party
  - d. disclosed by the receiving party pursuant to a legal obligation.
3. The confidentiality obligation described in this Article shall be for the duration of this Agreement and for a period of three years after its termination.

#### **Article 25 - Penalty for breach of confidentiality obligation**

1. If the principal violates the article of these general terms and conditions on confidentiality, he forfeits to the service provider an immediately payable fine of € 5,000 for each violation and in addition an amount of € 500 for each day that the violation continues. This is irrespective of whether the breach can be attributed to the principal. Moreover, no prior notice of default or legal proceedings are required for the forfeiture of this penalty. There is also no need for any form of damage.

2. The forfeiture of the penalty referred to in paragraph 1 of this article shall not affect the other rights of service provider including its right to claim damages in addition to the penalty.

#### **Article 26 - Non-acquisition of staff**

Client shall not employ any employees of service provider (or of companies called upon by service provider for the execution of this agreement and who are (have been) involved in the execution of the agreement). Nor shall he have them otherwise work for him directly or indirectly. This prohibition applies during the term of the agreement until one year after its termination. There is one exception to this prohibition: the parties may make other arrangements in good businesslike consultation with each other. These agreements apply insofar as they are recorded in writing.

#### **Article 27 - Applicable law and competent court**

1. Any agreement between the parties shall be governed exclusively by Dutch law.
2. The Dutch judge in the district where Xblox B.V. has established / practice holds / office holds is exclusively competent to take knowledge of possible disputes between parties, unless the law prescribes differently.