

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

### **Article 1 - Definitions.**

1. Xblox B.V., established in Bergschenhoek, KvK number 61607118, is referred to in these general terms and conditions as service provider.
2. The other party of service provider is referred to as client in these general terms and conditions.
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. Deviation from these terms and conditions is possible only if expressly agreed upon by the parties in writing.
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 agreed otherwise in writing or the invoice specifies a different payment period.
2. Payments shall be made without any recourse to suspension or set-off by transferring the amount due to the bank account number provided by service provider.
3. If the client does not pay within the agreed period, he shall be in default by operation of law, without the need for any reminder. From that moment, service provider is entitled to suspend the obligations until client has fulfilled his payment obligations.
4. If the principal remains in default, the service provider shall proceed to collection. The costs relating to such collection shall be for the principal's account. When the client is in default, he owes the service provider, in addition to the principal sum, statutory (commercial) interest, extrajudicial collection costs and other damages. The collection costs are calculated according to the Decree on compensation for extrajudicial collection costs.
5. In case of liquidation, bankruptcy, attachment or suspension of payment of the principal, the claims of service provider against the principal are immediately due and payable.
6. If the client refuses to cooperate with the execution of the order by service provider, he is still obliged to pay the agreed price to service provider.

### **Article 4 - Offers and tenders**

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

### **Article 5 - Prices**

1. The prices stated on service provider's offers, quotations and invoices are exclusive of VAT and any other government taxes, unless explicitly stated otherwise.

2. The prices of goods are based on the cost prices known at that 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 result in price increases.
3. With regard to the provision of services, the parties may agree on a fixed price when the agreement is concluded.
4. If no fixed price has been agreed upon, the rate relating to the provision of services may be determined on the basis of hours actually spent. The rate shall be calculated according to the service provider's usual hourly rates, valid for the period in which he performs the work, unless a different hourly rate has been agreed upon.
5. If no rate based on the actual hours spent has been agreed upon, a guide price for the services will be agreed upon, from which the service provider is entitled to deviate up to 10%. If the guide price will be more than 10% higher, the service provider shall inform the client in due time why a higher price is justified. In that case, the client is entitled to cancel part of the order that exceeds the guide price plus 10%.

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

1. The prices and hourly rates agreed upon when entering into the agreement are based on the price level applied at that time. Service Provider has the right to adjust the fees to be charged to Client annually as of January 1.
2. Adjusted prices, rates and hourly wages will be communicated to client as soon as possible.

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

1. Client shall make all information relevant to the performance of the assignment available to service provider.
2. Principal is obliged to provide all data and documents, which service provider believes to be necessary for the correct execution of the order, in time and in the desired form and manner
3. The client guarantees 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 order does not dictate otherwise.
4. Client shall indemnify service provider for any damage in any form resulting from failure to comply with the provisions of the first paragraph of this article.
5. If and to the extent the client so requests, service provider shall return the relevant documents.
6. If the client fails to make available the information and documents required by the service provider, or fails to do so on time or properly, and the execution of the order is delayed as a result, the resulting additional costs and additional fees shall be borne by 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 assignment, the client is obliged to pay the wages due and expenses incurred by service provider.

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

1. Service Provider shall perform the Agreement to the best of its knowledge and ability and in accordance with the requirements of good workmanship.
2. Service Provider has the right to have work performed by third parties.

3. Performance shall be by mutual agreement and after written agreement and payment of any agreed advance.
4. It is the client's responsibility that service provider can begin the assignment in a timely manner.

#### **Article 10 - Contract duration of assignment**

1. The agreement between the client and the service provider is entered into for an indefinite period of time, unless the nature of the agreement dictates otherwise or the parties have expressly agreed otherwise in writing.
2. If, within the term of the agreement, the parties have agreed on a deadline for the completion of certain work, this is never a fatal deadline. If this period is exceeded, the client must give the 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 modify or supplement the work to be performed, the parties shall adjust the agreement accordingly in a timely manner and by mutual agreement.
2. If the parties agree that the agreement will be amended or supplemented, the time of completion of performance may be affected as a result. Service Provider shall inform the client as soon as possible.
3. If the change or supplement 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, the service provider shall indicate the extent to which the change or supplement to the agreement will result in an overrun of this fee.

#### **Article 12 - Force majeure**

1. In addition to the provisions of article 6:75 of the Dutch Civil Code, a service provider's failure to fulfill any obligation to the client cannot be attributed to the service provider in case of a circumstance independent of the service provider's will, as a result of which the fulfillment of its obligations to the client is fully or partially prevented or as a result of which the fulfillment of its obligations cannot reasonably be required of the service provider. Such circumstances shall include non-performance by suppliers or other third parties, power failures, computer viruses, strikes, adverse weather conditions and work stoppages.
2. If a situation arises as referred to above as a result of which service provider cannot fulfill its obligations to client, those obligations shall be suspended as long as service provider cannot fulfill its obligations. If the situation referred to in the previous sentence has lasted for 30 calendar days, the parties shall be entitled to dissolve the agreement in whole or in part in writing.
3. Service provider is not bound to compensate any damage in the case referred to in the second paragraph of this article, even if service provider enjoys any advantage as a result of the force majeure situation.

#### **Article 13 - Offset**

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 arising from 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 counts as a clause with property law effect as referred to in Article 3:83, paragraph 2, Civil Code.

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

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

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

1. The client undertakes to adequately insure and keep insured delivered items that are necessary for the execution of the underlying agreement, as well as items of service provider present at the client's premises and items delivered under retention of title against, among other things, fire, explosion and water damage as well as theft.
2. Client shall make the policy of such insurance available for inspection upon first request.

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

1. Service Provider shall not be liable for damages resulting from this Agreement unless Service Provider caused the damages intentionally or with gross negligence.
2. In the event that service provider owes damages to client, the damages shall not exceed the fee.
3. Any liability for damages 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(s) taken out. This amount will be increased by the amount of the excess according to the relevant policy.
4. The limitation of liability also applies if service provider is held liable for damages resulting directly or indirectly from the malfunctioning of the equipment, software, data files, registers or other items used by service provider in the execution of the order.
5. Not excluded is the liability of service provider for damages resulting from intentional or deliberate recklessness of service provider, its executive or subordinates.

#### **Article 19 - Principal's liability**

1. In case an order is given by more than one person, each of them is jointly and severally liable for the amounts due to service provider under that order.
2. If an assignment is given directly or indirectly by a natural person on behalf of a legal entity, this natural person can also be the principal in private. This requires that this natural person can be regarded as the (co)policymaker of the legal entity. In the event of non-payment by the legal entity, the natural person is therefore personally liable for payment of the invoice, regardless of whether it is made out in the name of a legal entity or in the name of the client as a natural person or both of them, whether or not at the client's request.

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

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

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

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

#### **Article 22 - Retention of title, right of suspension and right of retention**

1. The goods and parts delivered to the client shall remain the property of service provider until the client has paid the entire agreed price. Until that time, service provider may invoke its retention of title and repossess 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 still paid. There is then a question of creditor default. Late delivery cannot be held against the service provider in that case.
3. Service Provider is not authorized to pledge or otherwise encumber the items subject to its retention of title.
4. If goods have not yet been delivered, but the agreed advance payment or price has not been paid in accordance with agreement, service provider has the right of retention. The item will then not be delivered until the customer has paid in full and in accordance with agreement.
5. In the event of liquidation, insolvency or suspension of payments of the client, the client's obligations shall become immediately due and payable.

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

1. Unless the parties have agreed otherwise in writing, Service Provider retains all intellectual absolute rights (including copyright, patent rights, trademark rights, drawing and model rights, etc.) in all designs, drawings, writings, carriers containing data or other information, quotations, illustrations, sketches, models, models, etc.
2. The said intellectual absolute rights may not be copied, shown and/or made available to third parties or otherwise used 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 mean that to which this article relates, as well as company data. Client undertakes to impose a written duty of confidentiality on his staff and/or third parties involved in the performance of this agreement of the scope of this provision.

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

1. Each party shall keep confidential the information it receives (in any form) from the other party and any other information concerning the other party which it knows or has reasonable grounds to suspect to be secret or confidential, or information the dissemination of which it can expect to cause harm to the other party, and shall take all necessary measures to ensure that its personnel also keep the said information confidential.
2. The duty of confidentiality mentioned in the first paragraph of this article does not apply to information:

- a. that was already public at the time it was received by the recipient or has subsequently become public without a breach by the receiving party of a duty of confidentiality owed to him;
  - b. which the receiving party can prove was already in its possession at the time of provision by the other party;
  - c. received by the receiving party from a third party where that third party was entitled to provide that information to the receiving party
  - d. disclosed by the receiving party pursuant to a legal duty.
3. The obligation of confidentiality described in this Article shall apply 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 client violates the article of these general terms and conditions on confidentiality, client forfeits for 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 regardless of whether the violation can be attributed to the client. Moreover, no prior notice of default or court proceedings are required for the forfeiture of this penalty. Nor does it require any form of damage.
2. The forfeiture of the fine referred to in the first paragraph of this article shall not affect the other rights of service provider including its right to claim damages in addition to the fine.

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

The client shall not employ any employees of service provider (or of companies that service provider has called upon for the performance of this agreement and that are (have been) involved in the performance of the agreement). Nor shall he otherwise have them work directly or indirectly for him. 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 agreements with each other in good business consultation. 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 the laws of the Netherlands.
2. The Dutch judge in the district where Xblox B.V. is established/practices/holds office is exclusively competent to take cognizance of possible disputes between parties, unless the law imperatively prescribes otherwise.