

Terms and conditions Tuxis B.V. hereinafter Tuxis

Version 01 may 2019

1. GENERAL

1. All our offers, agreements and their implementation are governed solely by the terms and conditions in hand. Deviations must be explicitly agreed upon with us in writing.
2. In these terms 'the other party' is understood to be: each natural (or legal) person who has closed an agreement with our company, or wishes to close one, as well as their representative(s), delegate(s), assignee(s) and heirs.
3. The terms and conditions as formulated by the other party will remain unchanged to the extent that they are not in conflict with the terms and conditions in hand. In case of any conflict, our conditions will take precedence under any circumstance, even if priority has been stipulated otherwise.
4. The [Acceptable Use Policy](#), [Abuse Policy](#) and [Senisble Use Policy](#) are valid on all our agreements and their implementation.
5. In the event of a conflict between the Dutch language version of these Conditions and any version in another language, the Dutch language version shall prevail.

2. REALISATION AGREEMENT

1. All our offers and propositions, in whatever form, are noncommittal, unless we explicitly stated otherwise.
2. If an offer is accompanied with demos, drawings, estimates, plans, catalogues or other documents or digital information on products, these remain our property at all times and must be returned to us at request. They may not be reproduced, copied, cached or shown to third parties without our permission.
3. Transmission of offers and/or (other) documentation does not put us under the obligation to accept an order. Non-acceptance will be notified to the other party as soon as possible, but within 14 days in any case. Therefore the agreement is concluded only 14 days after acceptance or as soon as we confirm the agreement in writing or (start to) execute it.

3. DELIVERY

1. We reserve the right to reject assignments or orders without foundation, or to exclusively deliver against cash payment or cash on delivery.
2. Our reported delivery times are an indication and are not to be regarded as

deadlines. Delivery time statements are always and approximation, unless specified otherwise in writing.

3. Delivery shall be ex works or ex warehouse, unless otherwise agreed.
4. We reserve the right to demand cash on delivery or prepayment from the other party.

4. CANCELLATION

1. If the other party wishes to cancel after an agreement has been concluded, a 15% cancellation fee (based on the order price including VAT) will be charged, provided we agree to the dissolution, without it affecting our right to full compensation including lost profits.

5. PRICES

1. Unless stated otherwise, our prices are:
 - for services based on hourly rates
 - for goods based on delivery ex works or warehouse
 - excluding VAT, import duties, other taxes, levies and duties'
 - excluding the costs of packaging, loading and unloading, transport and insurance
 - excluding installation and instruction costs
 - in Euros
 - excluding telephone or telecommunication costs
2. In the event of an increase of one or more of the cost factors, we are entitled to increase the order price accordingly; all this with due regard to any relevant existing regulations, on the understanding that any foreseeable future price increases must be recorded in the order confirmation.

6. FORCE MAJEURE

1. "Force majeure" is understood to mean: every circumstance independent of either party's intention or any unforeseeable circumstance making the fulfilment of the agreement to no longer be reasonable expected from the other party.
2. In this context, force majeure in the contractual relationships with our other parties is understood to mean a failure or obstruction of the telecommunication facilities of third parties, which prevents normal transmissions of telecommunication for short or longer periods of time.
3. If, in our opinion, the force majeure is of a temporary nature, we have the right to postpone the implementation of the agreement until the circumstance causing the force majeure has been resolved.

4. If, in our opinion, the force majeure is of a permanent nature, the parties can come to an arrangement on the termination of the agreement and the associated consequences.
5. We are entitled to demand payment for the performance in the implementation of the agreement prior to the occurrence of the circumstance leading to force majeure.
6. The party which is (going to) enter into a force majeure situation, must inform the other party of this immediately.

7. INTELLECTUAL PROPERTY

1. All prototypes, demos, drawings, designs, diagrams, sets of requirements, sketches, models, etcetera, established by ourselves or on our behalf in the execution of the work, remain our inalienable property, as will the right to use them.
2. The other party warrants us at all times that the use of data or other things supplied by the other party shall not put us in contravention of statutory regulations or protected rights of third parties.
3. The other party indemnifies us in full for all direct and indirect consequences of claims third parties are allowed to lodge under breach of the warranty set out in paragraph 7.2
4. At all times, we reserve the copyright on all software developed by us, whether at request or not.

8. LIABILITY

1. Except in the case of gross negligence or deliberate intent of its board and/or other managers of V.O.F., we cannot be held liable to compensate any damage of whatever nature or extent, directly or indirectly, including loss of profit, to movable or immovable property or to persons, both with the other party or third parties, arising from the execution of the agreement
2. In no event will we be liable for damages arising from or caused by the use of the product or the unsuitability for the purpose for purchasing of the other party.
3. Even if the other party or a third party makes changes in the software we developed or the hardware we provided, we exclude any liability in regard to the operation and (consequential) damages.
4. We can never be held responsible for the contents of any file the other party or a third party placed on the internet. We can also not be held responsible for the consequences that might arise from the viewing or executing by the other party. We expressly reserve the right to remove offensive, discriminatory or injurious texts from the internet and notify this to the relevant government authorities. In case of repeated offence, we reserve the right to remove the other party's internet access.

5. We are not liable for pure financial losses such as lost profits, business interruption loss, reputational damage, etcetera.
6. If, despite the exclusion of liability as stated under 8.1, our liability is assumed in the law, the extent of our liability will never exceed the total cost of the contract or partial delivery.

9. COMPLAINTS

1. Any complaints can only be considered if such complaints are received by us directly in writing within 3 workdays of delivery of the performance in question, accompanied by a detailed account of the nature and basis of the complaints.
2. Complaints about invoices must be submitted in writing within five workdays after the invoice date.
3. After the above-mentioned terms have lapsed, the other party will be deemed to have approved the goods delivered or the invoice, in which case Tuxis will no longer handle any complaints.
4. If the complaint is considered by us to be valid, we will be obliged to only deliver the agreed performance as yet.
5. If the complaint is considered to be valid, the liability of the other party will be suspended until such time as the complaint is settled, but with the proviso that this only includes the part of the invoice to which the complaint is considered applicable.
6. Return of the delivered goods can only take place after our prior written consent, on the conditions to be determined by us.

10. RESERVATION OF OWNERSHIP

1. All goods and software delivered continue to be our property until such time as the other party has paid for all our deliveries and work performed and/or deliveries and work still to be performed under the agreement, including interest and costs.
2. In case of suspension of payments, bankruptcy, moratorium, liquidation of the other party, or death when the other party is a natural person, we are entitled to the order without notice or judicial intervention, wholly or partially cancel and the unpaid portion of the delivered recovery.
3. Dissolution and recovery of the goods do not diminish our right to compensation for loss or damage. In these cases any claim against the other party will be due immediately and in full.

11. Article 11 PAYMENT

1. Access, hosting, colocation subscriptions and agreements for related internet



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- services, including service contracts, are invoiced monthly.
2. Courses are invoiced beforehand.
 3. Domain names are invoiced per year, in advance.
 4. Payment is due within 21 days after the invoice date, without any discount, deduction or suspension, either by payment into or transfer to a bank or giro account designated by us. The currency date on our bank/giro statements shall be decisive and be taken as the day of payment.
 5. In the event the other party:
 - is declared bankrupt, requesting a moratorium, or if its capital is seized in whole or in part
 - is placed under guardianship or dies
 - fails to meet any of the obligations under the agreement and/or these terms and conditions
 - neglects a due invoice amount or part of it within the deadline

we have the right, by the mere occurrence of one of the aforementioned circumstances, to declare the contract dissolved, and to suspend the provision of our services, and to claim any amount owed by the other party on the grounds of work carried out and/or deliveries made by us in full immediately and without any warning or notice of default being necessary, and to reclaim the delivered goods which have not (yet) been paid as our property, all without prejudice to our right to compensation of cost, loss and interest.

6. If the payment is not made within the time specified in 11.4, the other party is legally in default as of the invoice date and is due a statutory interest over the outstanding amount.
7. All judicial and extrajudicial costs to be incurred, shall be charged to the other party. The extrajudicial will be calculated according to the II Report or, if this Report is no longer up-to-date, according to the scales deemed reasonable by the Dutch Association for the Judiciary (NVvR).

12. TERMINATION

1. Access, hosting, colocation subscriptions and agreements for related internet services, including service contracts, concluded for a definite period, can only be terminated by the end of the period for which they have entered, by written notice and according to the minimum term of notice of a month. Without a timely notice, these contracts are deemed to have been tacitly renewed for the same period of time as earlier conclusions, according to the conditions employed by Tuxis for comparable contracts at the time of the tacit renewal.
2. Access, hosting, colocation subscriptions and agreement for related internet



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- services, including service contracts, concluded for an indefinite amount of time can only be terminated by the end of every calendar quarter, by written notice and according to the minimum term of notice of a month.
3. Agreements regarding registration and exploitation of internet domain names can be terminated by written notice by the end of every year, in accordance with a term of notice of a month. When the agreements for the registration and exploitation of internet domain names are part of a bigger system of contractual relations between the party and Tuxis, the termination of a registration contract or a request for relocation to another provider can be made at a time when the other agreements are validly terminated.
 4. Notwithstanding that which has been provided in the previous articles, Tuxis can terminate any concluded agreements with the other party at by written notice at all times, given that the other party acted in conflict with the concluded agreements or the Acceptable Use Policy and/or Abuse Policy adopted by Tuxis, or otherwise harms the interests of Tuxis in such a manner that continuation of the relationship cannot be reasonably expected from Tuxis.

13. APPLICABLE LAW AND DISPUTES

1. All our offers, agreements and their implementation are subject to the Dutch law only.
2. Any dispute, including any disagreement which only one party considers to be a dispute, resulting from or related to the agreement to which these terms and conditions apply or the related terms and conditions themselves and their interpretation or implementation, both in factual and legal terms, will be settled by the competent court in Arnhem, unless such competence is vested in the cantonal courts.



Annex 1: Processing Personal Data

If Tuxis Internet Engineering V.O.F. (hereinafter: "Tuxis") processes personal data while executing the agreement the following conditions apply in addition to the General Terms and Conditions.

1: General

1.1 The terms defined in this Annex in the General Data Protection Regulation (hereinafter: "AVG") have the meaning assigned to them in the AVG.

1.2 In the processing of Personal Data the other party can be designated as the Data Controller, or if the Other Party processes the Personal Data for a third party as a Data Processor. Tuxis fulfills (depending on the capacity in which the other party processes Personal Data) the role of Data Processor or Data Sub-processor.

2: Purposes of the processing

2.1 Tuxis commits to process Personal Data under the terms of the Agreement on behalf of the other party. Processing will only take place within the framework of the execution of the Agreement, plus those purposes that are reasonably related thereto or that are determined with further consent.

2.2 Tuxis will not process the personal data for any other purpose than as determined by the other party. The other party will inform Tuxis of the processing purposes to the extent that these have not already been mentioned in this Appendix or Sensible Use Policy. The other party must report which categories of data subjects and personal data are concerned by means of the document: SPECIFICATION OF PERSONAL DATA AND PERSONS CONCERNED. If the other party does not report this, the other party will not process or store any special personal data and the other party is always the Data Controller and Tuxis is at all times the Data Processor.

2.3 Tuxis has no control over the purpose and the means for the processing of Personal Data. Tuxis makes no decisions about the receipt and use of the Personal Data, the provision to third parties and the duration of the storage of Personal Data.



3: Obligations Tuxis

3.1 With regard to the processing operations referred to in Article 2, Tuxis will ensure compliance with the conditions that are set in the GDPR for the processing of Personal Data.

3.2 Tuxis will process Personal Data and other data that will be delivered to Tuxis by or on behalf of the other party.

3.3 Tuxis shall inform the other party, at the latter's request and within a reasonable period of time, about the measures it has taken with regard to its obligations under this Annex.

3.4 The obligations of Tuxis arising from this Annex also apply to those who process Personal Data under the authority of Tuxis.

3.5 Tuxis will notify the other party if in its opinion a request from the other party is in conflict with relevant privacy laws and regulations.

3.6 In the context of the processing Tuxis will provide cooperation with the counter-party if a data protection impact assessment, or prior consultation of the supervisory authority, is necessary.

4: Transfer of personal data

4.1 Tuxis may process the personal data in countries within the European Union, subject to the relevant laws and regulations.

4.2 Tuxis will notify the other party, at its request, of the country or countries concerned.



5:Dividing responsibility

5.1 The parties will ensure compliance with applicable privacy laws and regulations.

5.2 The permitted processing operations will be carried out by Tuxis within a (semi) automated environment.

5.3 Tuxis is solely responsible for the processing of the Personal Data under this Annex, in accordance with the instructions of the other party and under the explicit responsibility of the other party. Tuxis is not responsible for all other processing of Personal Data, including in any case but not limited to the collection of the Personal Data by the Other Party, processing for purposes not reported by the Other Party to Tuxis, processing by third parties and / or for other purposes. The responsibility for these processing operations rests exclusively with the other party.

5.4 The other party guarantees that the content the use and the instructions for processing Personal Data, as referred to in this Annex, are not unlawful and do not infringe any third-party rights.

6:Use of third-parties or subcontractors

6.1 The other party hereby grants Tuxis permission to engage third parties (sub-processors) during processing.

6.2 At the request of the other party, Tuxis will inform the other party as soon as possible about the sub-processors it has engaged. The counter-party has the right to object to the use of a subprocessor. This objection must be submitted in writing, within two weeks and supported by arguments.

6.3 Tuxis unconditionally ensures that these third parties take on the same obligations in writing as agreed between the other party and Tuxis. Tuxis guarantees correct compliance with these obligations by these third parties.



7:Security

7.1 Tuxis will endeavor to take appropriate technical and organizational measures with regard to the processing of Personal Data against loss or against any form of unlawful processing (such as unauthorized inspection, violation, alteration or provision of personal data).

7.2 Tuxis does not guarantee that the security is effective under all circumstances. Tuxis will endeavor to ensure that the security meets a level that, in view of the state of the art, the sensitivity of the Personal Data and the costs associated with security, is not unreasonable.

7.3 The other party will only provide Personal Data for processing to Tuxis if the other party has ensured that the required security measures have been taken. the other party is responsible for compliance with the measures agreed by the Parties

8:Reporting obligation

8.1 In the case of a security breach and / or a data breach (which is understood to mean: a breach of security that inadvertently or unlawfully leads to the destruction, loss, modification or unauthorized disclosure of or unauthorized access to the transmitted data, stored or otherwise generated data), Tuxis will do its best to inform the counter-party about this as soon as possible in response to which the counter-party assesses whether it will inform the supervisory authorities and / or data subjects or not. Tuxis strives to the best of its ability to make the information provided complete, correct and accurate.

8.2 If required by law and / or regulation, Tuxis will cooperate in informing the relevant authorities and any interested parties. the counter-party is responsible for reporting to the relevant authorities.

8.3 The obligation to report in any case includes the reporting of the fact that there has been a leak, as well as:

- What is the (alleged) cause of the leak;
- What is the (as yet known and / or expected) consequence;
- What is the (proposed) solution;
- What the measures already taken are;
- Contact details for the follow-up of the report;
- Who has been informed (such as the person concerned, the other party, the supervisor).



9: Handling of requests from data subject

9.1 In the event that a data subject submits a request about his personal data to Tuxis, Tuxis will forward the request to the other party and inform the party concerned accordingly. The other party will then continue to process the request independently. If it turns out that the other party needs help from Tuxis for the execution of a request from a data subject, Tuxis will cooperate and Tuxis may charge costs for this.

10: Audit

10.1 The other party is entitled to have audits carried out by an independent ICT expert who is bound by confidentiality to check compliance with all the points in this Appendix.

10.2 This audit will only take place after the counter-party has requested existing audit reports from Tuxis, assessed and presented reasonable arguments that justify an audit initiated by the counter-party. Such an audit is justified when the similar audit reports at Tuxis give no or insufficient information about the compliance with this Appendix by Tuxis. The counter-initiated audit will take place two weeks after prior notification by the counter-party and not more than once a year.

10.3 Tuxis will cooperate with the audit and supply all relevant information reasonably relevant to the audit, including supporting data such as system logs, and employees as timely as possible and within a reasonable period of time, whereby a maximum period of two weeks is reasonable unless an urgent interest opposes this.

10.4 The findings as a result of the carried out audit will be assessed by the Parties in mutual consultation and, as a result thereof, be implemented by one of the Parties or jointly by both Parties.

10.5 The reasonable costs for the audit are for the other party on the understanding that the costs for the ICT expert to be hired are always for the other party.



11: Non-disclosure and confidentiality

11.1 All Personal Data that Tuxis receives from the other party and / or collects itself within the framework of this Appendix, is subject to a non-disclosure obligation towards third parties. Tuxis will not use this information for any purpose other than the purpose for which it was obtained, unless it has been formulated in such a way that it can not be traced back to those involved.

11.2 This non-disclosure does not apply:

- To the extent that the other party has given explicit permission to provide the information to third parties; or
- If the provision of the information to third parties is logically necessary for the execution of the Main Agreement or this Appendix; and
- If there is a legal obligation to provide the information to a third party.

12: Duration and cancellation

12.1 The Appendix is valid for the duration as stipulated in the Agreement between the Parties and in the absence thereof at least for the duration of the cooperation.

12.2 The Appendix can not be canceled prematurely.

12.3 Parties may only amend this Annex by mutual consent.

12.4 Tuxis will immediately destroy the Personal Data received from the other party after termination of the Appendix, unless the Parties agree otherwise.

