



## **RB2 – GENERAL TERMS AND CONDITIONS – v2.0**

**RB2 B.V.** located in Purmerend  
hereinafter referred to as **RB2**  
Last saved: **December 2016**

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### **Article 1. Definitions**

- 1.1. General terms and conditions: the present general terms and conditions.
- 1.2. Domain name: any domain name and any IP address.
- 1.3. Material: all materials that can be stored on an electronic data carrier, such as data, information, files, documents, software, websites and web applications.
- 1.4. Client: the natural person or legal entity with which RB2 enters into an Agreement.
- 1.5. Agreement: the agreement between RB2 and the Client on the basis of which RB2's products and services are supplied.
- 1.6. Party or parties: the party or parties to the Agreement to be concluded.
- 1.7. RB2: the private company with limited liability RB2, filed with the Chamber of Commerce under number 37141751.
- 1.8. Written: written or printed paper, including e-mail and fax communications, provided that the identity of the sender and integrity of the contents have been sufficiently established.
- 1.9. Website: [www.rb2.nl](http://www.rb2.nl).

### **Article 2. Applicability of the General Terms and Conditions**

- 2.1. The General Terms and Conditions apply to every offer by RB2 and to every Agreement.
- 2.2. Provisions or terms and conditions stipulated by the Client that differ from, or do not appear in these General Terms and Conditions or the Agreement will only be binding upon RB2 if, and to the extent that, these have been expressly accepted by RB2 and in Writing.

2.3. If provisions of the General Terms and Conditions are inconsistent with the provisions of the Agreement or Written agreements between the Parties, the following order of priority will apply (from high to low):

- a. Written agreements made after the Agreement was concluded;
- b. the Agreement;
- c. the General Terms and Conditions.

### **Article 3. Formation of the Agreement**

3.1. The Agreement is formed when the Client accepts a quotation or other offer made by RB2. The Agreement takes effect as soon as the Agreement is confirmed electronically. If the offer is made in Writing, the Agreement takes effect as soon as the Client signs and returns the offer to RB2.

3.2. All quotations are subject to contract and valid for 30 calendar days after having been submitted by RB2. RB2 can under no circumstances be obliged to accept instructions after this period, but if RB2 does so, the quotation shall be deemed as accepted.

3.3. If the acceptance differs (even on a minor point of detail) from the offer, RB2 will not be bound by it. The Agreement will in that case be formed but not in accordance with this varying acceptance, unless RB2 indicates otherwise.

3.4. The delivery dates specified by RB2 will always be an indication only, unless it is expressly stated in Writing that the date is a final delivery date. RB2 will only be considered to be in default, also with respect to an agreed final delivery date, after the Client has declared RB2 to be in default in Writing.

#### **Article 4. Execution of the Agreement**

4.1. RB2 will endeavor to execute the Agreement as a good contractor.

4.2. The Client will provide RB2 with any and all information that is reasonably necessary for the proper execution of the Agreement. In this context the Client, in the case of a software development assignment, is obliged to provide clear specifications, among other things.

4.3. The Client will provide all the necessary support to the RB2 employees performing activities at the Client's office in the context of the Agreement to enable them to carry out their work.

4.4. In the case of services relating to search engine optimization, RB2 will endeavor to achieve the desired results. RB2 is not liable for any damage or losses suffered by the Client due to disappointing results.

4.5. RB2 is entitled to engage third parties in the execution of the Agreement.

#### **Article 5. Scrum**

5.1. Unless otherwise agreed, software development Agreements will be executed on the basis of the Scrum framework. The Scrum framework is an agile development methodology for software projects, consisting of a series of sprints.

5.2. For software development, RB2 will make employees available to develop software in teams with the Client during sprints. The Parties will agree the number of teams, the number of team members and the composition of the teams.

5.3. RB2 is at all times entitled to change one or more team members as it sees fit.

5.4. If the work in a sprint achieves the test cases for this sprint, RB2 will deliver the work for approval. The Client will approve or reject the work delivered based on the functional design, however cannot reject the work based on objections that are inconsistent with an achieved test case. If the delivered work is rejected, the Parties will determine by agreement whether (1) the sprint in question needs to be extended, (2) a new sprint is required to recover the work rejected or (3) the work will be transferred to a generic recovery sprint.

5.5. The team members' normal working hours are based on Dutch legislation and our employment agreements. This generally means the following:

- a. eight-hour working days (from 9:00h to 17:00h) from Monday to Friday;
- b. weekends and public holidays are usually days off;
- c. team members can take a specific number of holidays each year;
- d. team members can spend one working day per month improving their skills (for instance by taking a course);
- e. team members can of course sometimes unfortunately fall ill.

5.6. If a team member falls ill or take holiday, RB2 will naturally endeavor to provide a suitable replacement.

5.7. If team members need to be deployed outside normal working hours (overtime), a record will be kept of the overtime worked by these team members and invoiced as follows:

- a. in case of overtime on Mondays to Saturdays, the Client will be charged 150% of the relevant team member's or members' usual hourly rate for each hour of overtime;
- b. in case of overtime on Sundays or public holidays, the Client will be charged 200% of the relevant team member's or members' usual hourly rate for each hour of overtime.

5.8. If team members are required to carry out work at a location other than RB2's usual location (for example at the Client's site), RB2 is entitled to charge the Client additional costs for this. These costs include but are not limited to: travel costs, travel insurance costs, costs of accommodation, costs of food and drink. The Client and RB2 will agree such costs in advance.

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**Article 6. Delivery and acceptance**

6.1. If the work is not carried out on the basis of the Scrum framework, the provisions of this Article apply.

6.2. Following execution of the work or parts thereof, RB2 will deliver the results when they, according to its professional opinion, meet the specifications or are suitable for use. The Client is subsequently required to evaluate the delivered work and to approve or reject it in Writing within seven calendar days of delivery. If the Client does not reject the delivered work within this period, it shall be deemed to have been accepted.

6.3 If the Client rejects all or part of the delivered work, RB2 will endeavor to eliminate the reason for rejection within the shortest possible term. RB2 may do so by revising the result or by indicating why the reason provided does not stand, with substantiation. Subsequently, the Client will once again have fourteen calendar days to approve or reject the revision or substantiation.

6.4. If after the revision or substantiation the Client continues to reject all or part of the delivered work, RB2 will be entitled to charge additional costs for all subsequent revisions. If a Party states that it does not deem (or no longer deems) any further revisions useful, both Parties are entitled to cancel the Agreement in respect of the relevant product or service. In that case the Client will reimburse all costs incurred by RB2. This does not entitle the Client to use the rejected items in any way, shape or form.

6.5. Once the delivered items have been approved any liability for faults in the delivered items shall lapse, unless the Client had or should have had prior knowledge of the fault at the time of acceptance. Any liability for faults will in any case lapse after one year following termination of the Agreement, regardless of the reason thereof.

6.6. RB2 will make efforts to rectify any faults in the delivered items for six months after their acceptance. These efforts will immediately cease to apply if the delivered items have been adapted by any party other than RB2. The Client must specify the faults to be rectified in detail.

**Article 7. Prices and payments**

7.1. All prices are exclusive of sales tax and other government levies.

7.2. RB2 will send an invoice for all amounts owed and is entitled to invoice in advance and electronically. The Client must pay the invoice by transfer or direct debit.

7.3. Invoices are payable within fourteen calendar days, unless explicitly agreed otherwise in Writing. If an amount owed is not paid or not paid within the payment term, the Client will immediately be in default without notice of default being required.

7.4. If the Client disputes an invoice it must notify the RB2 accounts department in Writing, stating reasons, within fourteen calendar days of the date of the invoice. This does not release the Client from its obligation to pay the invoice within the payment term.

7.5. In the event that the Client fails to pay by the due date, the Client is obliged to pay any and all judicial and extra-judicial collection costs, including the costs of lawyers, bailiffs and debt-collection agencies, in addition to the amount payable and the relevant interest due.

7.6. The claim will be immediately due and payable if: (1) the Client is declared insolvent, (2) the Client applies for a moratorium on payments, (3) the Client's business is wound up or dissolved, (4) the Client dies, or (5) all of the Client's assets are seized.

7.7. If the Agreement is a Continuing Performance Agreement, RB2 is also entitled to revise the prices applied by a maximum of 5% in the month of January.

7.8. All price adjustments are subject to the same terms, conditions and procedures that apply to amendments to the General Terms and Conditions, as described in article 16.

7.9. If the information provided by the Client at the time of the application or Agreement turns out to be incorrect, RB2 has the right to adjust the prices accordingly.

7.10. All costs arising from the Agreement that are incurred by RB2 are for the expense of the Client.

**Article 8. Intellectual property rights**

8.1. RB2 or its licensors hold all intellectual property rights to all of the Materials developed or made available in the context of the Agreement.

8.2. The Client is only granted the non-exclusive rights of use that are accorded explicitly and in Writing and these rights may not be transferred or sublicensed. In all other respects the Client will not reproduce or publish the Materials.

8.3. The Client is not permitted to remove from the Materials or modify any designation with respect to any copyrights, trademark rights or other intellectual property rights.

8.4. RB2 is not obliged to issue the source code of the Materials it has developed for the Client.

8.5. RB2 can take technical measures to protect its Materials. If RB2 does so, the Client is not permitted to remove or avoid such protection, except if and to the extent that the law provides otherwise.

8.6. RB2 has the right to use photographs, images or other Materials based on the design of the results of the Agreement for promotional purposes, and to state the Client's company name in this context.

#### **Article 9. Domain names**

9.1. This Article applies if RB2 will mediate for the Client in obtaining a Domain Name under the Agreement.

9.2. Application for, assignation of and any use of a Domain Name depend on and are subject to the applicable rules and procedures of the competent registration authority, such as the Foundation for Internet Domain Registration in the Netherlands [Stichting Internet Domeinregistratie Nederland]. RB2 only plays a mediatory role in the application process and cannot guarantee that any application will be accepted by the competent registration authority.

9.3. The Client is informed exclusively of the registration by the electronic confirmation from RB2, which states that the requested Domain Name has been registered. An invoice for the costs of registration is not a confirmation of registration.

9.4. The Domain Name is registered in the Client's name and the Client is fully responsible for the use of the Domain Name.

9.5. The minimum term of the Agreement depends on the chosen Domain Name and the applicable rules and procedures.

#### **Article 10. Availability, support and maintenance**

10.1. RB2 will make every effort to ensure the services and products are available.

10.2. In the event of unavailability of RB2's products and services due to disruptions, maintenance or other causes, RB2 will make every effort to inform the Client of the nature and expected duration of the interruption via the Website or by e-mail.

10.3. RB2 reserves the right to close its systems temporarily for maintenance, modification or improvement of the systems. RB2 will make every effort to ensure that as far as possible any such period of inactivity only takes place outside office hours and to inform the Client in good time of the scheduled periods of inactivity. RB2 is not liable for any damage or losses incurred by the Client as a result of such closure of the systems.

#### **Article 11. Misuse of the products and services**

11.1. RB2 has no knowledge of the Materials the Client stores on its servers.

11.2. The Client will refrain from storing or distributing unlawful Material on RB2's servers. The Client will also refrain from storing or distributing Material with racist, defamatory or erotic content, even if the Material is legal.

11.3. The Client will refrain from sending unsolicited commercial communication from RB2's servers.

11.4. If RB2 reasonably suspects or discovers that the Material the Client has stored on RB2's servers is unlawful, RB2 will take immediate action to remove the Material or block access to it. RB2 is not liable for any damage or loss arising from such actions.

11.5. The Client will refrain from obstructing other Clients or Internet users or inflicting damage on RB2's servers. The Client is prohibited from starting up processes or programs via the server or otherwise of which the Client is aware or can reasonably assume that these could obstruct or inflict damage on RB2, other clients or Internet users.

11.6. If RB2 believes that the law or the General Terms and Conditions are being infringed, RB2 can suspend the provision of products and services or block access to them.

11.7. The Client indemnifies RB2 from all legal claims relating to all Materials stored by the Client on RB2's servers.

**Article 12. Use of the products and services**

12.1. The Client will immediately inform RB2 in Writing of any changes in name, address, email and, if requested, its account number.

12.2. The Client itself is responsible for the use and protection of the products or services provided by RB2.

12.3. The Client is bound by the amount of data traffic described in the Agreement. In the event this amount is exceeded, RB2 can charge an additional amount in accordance with the prices stated for data traffic in the Agreement.

12.4. The measurements performed by RB2 in relation to the amount of data traffic serve as proof and are binding for the Client.

**Article 13. Accounts and login details**

13.1. RB2 can provide the Client with an account if necessary for the delivery of products and services. An account will be accessible by entering login details.

13.2. Any actions carried out via the Client's account will be deemed to have taken place at the Client's responsibility and risk. If the Client suspects the account is being misused, the Client must notify RB2 as soon as possible so that measures may be taken.

13.3. Without the agreement of RB2, the Client is prohibited from making available to third parties any login details made available by RB2. The Client itself is responsible for maintaining the confidentiality of the details.

**Article 14. Liability**

14.1. RB2 accepts statutory liability to pay compensation insofar as stipulated in this Article.

14.2. The total liability of RB2 for culpable non-compliance with provisions of the Agreement is limited to compensation for direct damage or loss up to a maximum of the amount of the price stipulated for the Agreement. If the Agreement is a continuing performance contract with a term of more than six months, the stipulated price will be set at the total fees stipulated for three months. Under no circumstances will the total compensation to be paid for any direct damage or loss exceed a sum of EUR 1000.

14.3. Only the following definition applies to direct damage or loss: (1) the reasonable costs to determine the cause and scope of the damage or losses; (2) any reasonable costs incurred to ensure the substandard performance of RB2 conforms to the Agreement, unless the substandard performance cannot be attributed to RB2; and (3) reasonable costs incurred to prevent or limit any damage or losses, insofar as the Client is able to demonstrate that these costs have led to a limitation of the direct damage or losses.

14.4. Except for the cases referred to in Article 13.2, RB2 will not be liable to pay any compensation whatsoever, regardless of the grounds on which a claim for compensation may be based. The maximum amounts referred to cease to apply, however, if and to the extent the damage or loss is a consequence of an intentional act or willful recklessness on the part of RB2's management.

14.5. RB2 is under no circumstances liable for damage or loss suffered as a result of force majeure. Force majeure includes failures or outages of the Internet or the telecommunications infrastructure, power failures, civil unrest, mobilization, war, transport disruptions, strikes, lockouts, business interruptions, stagnation in deliveries, fire and floods.

14.6. Any right to claim compensation will at all times be subject to the condition that the Client notifies RB2 of the damage or loss In Writing within fourteen calendar days after it has arisen.

14.7. The Client indemnifies RB2 against all third-party claims in connection with the Agreement.

**Article 15. Confidentiality**

15.1. The Parties undertake to maintain confidentiality with respect to all confidential information that they receive from the other Party. The Parties will also impose this obligation on their employees as well as on any third parties they have engaged to perform the Agreement.

15.2. Information will in any event be considered confidential if any Party has designated it as such.

15.3. The obligation to observe confidentiality does not apply to information that:

- a. is public or becomes public without the receiving Party breaching its duty of confidentiality;
- b. is lawfully made available to the receiving Party by a third party that does not have an obligation to observe confidentiality;
- c. the receiving Party shares with a third party on the basis of a legal obligation.

15.4. The obligations relating to confidentiality remain in force for as long as the Party providing the information can reasonably claim that the information is confidential.

15.5. If RB2 processes personal data when providing its services, the Client guarantees to RB2 that the processing of personal data does not infringe any rights of third parties and is not unlawful within the meaning of the applicable privacy laws and regulations.

15.6. The Client itself is responsible for compliance with the applicable privacy laws and regulations.

#### **Article 16. Staff**

16.1. The Client is not permitted to employ RB2's employees or to allow such employees to work for the Client in any other manner, either directly or indirectly, without RB2's prior permission in Writing for the term of the Agreement plus one year after the Agreement has ended. In this connection, RB2's employees are understood to be persons employed by RB2 or by one of its affiliates, or those who were employed by RB2 or by one of its affiliates six months previously or less.

#### **Article 17. Amendment of the General Terms and Conditions**

17.1. RB2 is entitled to amend or supplement the General Terms and Conditions. The amended conditions will also apply to existing Agreements. RB2 will notify the Client at least thirty calendar days before the amendment or addition takes effect via (1) a message on the Website, or (2) the e-mail address known to RB2.

17.2. If the Client objects before the amendment or addition takes effect, RB2 will consider whether it wishes to withdraw the amendment or addition to which it objects. RB2 will inform the Client of its decision. If RB2 decides against withdrawing the amendment or addition to which the Client objects, the Client will be entitled to cancel the Agreement as from the effective date.

17.3. RB2 can implement amendments in the Agreement and the General Terms and Conditions at any time if (1) such amendments are necessary due to changes in the statutory regulations, or (2) the amendments are minor.

#### **Article 18. Duration and end of the Agreement**

18.1. Agreements relating to RB2's services and products, including software development, are entered into for an indefinite period of time unless otherwise agreed. The Parties may only terminate an Agreement with due observance of the notice periods referred to in Article 17.3.

18.2. If a term is agreed, the Agreement cannot be terminated early. If the Agreement is not terminated at the end of the agreed term with due observance of the notice periods referred to in Article 17.3, the Agreement will be continued for an indefinite period of time at the end of the agreed term.

18.3. When terminating the Agreement, the Parties will observe the following notice periods at all times:

a. if the Agreement had a term of less than six months, the Parties will observe a notice period of at least one month;

b. if the Agreement had a term of six months to one year, the Parties will observe a notice period of at least two months;

c. if the Agreement had a term of more than one year, the Parties will observe a notice period of at least three months.

18.4. Agreements in relation to hosting and domain name services, or to search engine optimization, are entered into for a minimum term of twelve months. The Agreement will be renewed automatically for a period of one year each time if notice of termination is not received in Writing, unless agreed otherwise in Writing.

18.5. The Parties can only terminate Agreements relating to hosting and domain name services or to search engine optimization in Writing, with due observance of a two-month notice period.

18.6. If the Client fails to perform any obligation to which the Client is subject under the Agreement or under these terms and conditions, RB2 has the right to terminate all of the Agreements it has concluded with the Client in question without requiring notice of default or judicial intervention, and without prejudice to RB2' right to compensation for damage or loss, loss of profit and interest.

#### **Article 19. Choice of law and disputes**

19.1. The Agreement and the General Terms and Conditions are governed by Dutch law.

19.2. Insofar as the rules of mandatory law do not prescribe otherwise, all disputes arising from the Agreement and the General Terms and Conditions will be referred for adjudication to the Netherlands court of competent jurisdiction in Amsterdam.

**Article 20. Final provisions**

20.1. The version of any communications received or stored by RB2 will be regarded as authentic, except if the Client provides evidence to the contrary.

20.2. If a provision from the Agreement or General Terms and Conditions turns out to be null and void, this will not affect the validity of the Agreement or General Terms and Conditions as a whole. The Parties will agree on one or more replacement provisions which will reflect the purport of the original Agreement and General Terms and Conditions as much as is possible under the law.

20.3. Each party is only entitled to transfer its rights and obligations under this Agreement to a third party with the prior written consent of the other party. Contrary to the above, RB2 is entitled to assign its rights and obligations under the Agreement to a third party taking over RB2 or the relevant business activity from RB2.

**Contact details**

Should you have any questions, complaints or comments after reading these General Terms and Conditions, please contact us by e-mail or letter.

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