Unwind Creative Technology

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General Terms and Conditions

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1. Definitions and applicability

1.1. **Unwind:** located at Stationsplein 28, 1382 AD Weesp.

1.2. **Client / counter party:** The other person, other party or entity who enters into an agreement with Unwind.

1.3. The clients general terms and conditions do not apply.

2. Offers and prices

2.1. Offers and / or quotations made by Unwind are valid for 10 days unless withdrawn by Unwind before the expiration date.

2.2. All prices exclude VAT unless otherwise stated.

2.3. If an increase in costs for Unwind occurs that is not directly covered in the agreement with the client, which Unwind has no influence on, Unwind reserves the right for a period of three months after the agreement has expired, to increase the price.

3. Reaching an agreement

3.1. An agreement is concluded by an order of the client and acceptance of this order by Unwind. The order may be made orally or in writing, or can be placed online at the website of Unwind. The acceptance by Unwind is done by sending a written confirmation of the order by e-mail or post.

4. Terms

4.1. Unwind will always try to meet agreed terms and deadlines, but can not guarantee timely completion. If Unwind exceeds a term or deadline, the client is not entitled on any form of compensation, or does not has the right to terminate the agreement.

4.2. The client shall ensure that Unwind receives the required materials and information needed to achieve the agreed upon deadlines. Any additional work caused by the client failing to meet its obligations are fully reimbursed by the client according to the then current rates.

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5. Protection of data

5.1. Unwind records and stores personal data provided by the client to carry out its work and to inform the client of new products and developments.

5.2. Unwind will not provide any personal information to third parties except in conformity with the purpose of the agreement or if Unwind is obliged to this. Such an obligation includes as it arises from a legal obligation, including a designation of the competent authority or if the non-provision would be unlawful towards third parties. If Unwind in her view is obliged to provide the personal data and after that it is established that the obligation did not exist, Unwind is not liable for damage that occurred.

6. Copyright and other intellectual property rights

6.1. All intellectual property rights on software, hardware, documentation, offers, quotes, (website) designs, reports or otherwise, by Unwind developed, produced or made available to the client in connection with its services are solely owned by Unwind or its licensors.

6.2. The client will not remove any brand names, trademarks and other proprietary notices on what is delivered or made available by Unwind.

7. Terms of use

7.1. All rights of intellectual or industrial property of all software, hardware, documentation, offers, designs, reports or otherwise, developed or made available by virtue of an agreement are solely owned by Unwind or its licensors.

7.2. The client will only acquire the right to use software, websites, equipment, documentation, offers, designs, reports or otherwise, by Unwind developed, produced or made available to the client in connection with its services, as expressly provided in terms referred to, or as expressly granted in writing.

7.3. All intellectual property rights on the source code by Unwind developed, created or made available to client like web sites and applications rest exclusively with Unwind. Websites are consequently encrypted and applications compiled when delivered to the client.

7.4. If the client is in violation of the usage rights granted (without written consent of the works provided Unwind), Unwind reserves the right to charge a fee of three times the usual fee for such use, with a minimum of € 500, – (five hundred Euro) , not withholding Unwinds entitlement on compensation for the full damage suffered.

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8. Liability

8.1. Unwind only accepts liability to pay damages insofar as this article suggests.

8.2. The total liability of Unwind due to culpable breach of the agreement with the counter party is limited to direct damages up to the amount of the agreed price (excluding VAT).

8.3. Liability of Unwind for indirect damage, including consequential damages, lost profits, lost savings, damage through business interruptions, loss, confusion or damage to electronic data and / or damage caused by delay in the transport of data traffic is excluded except where Unwind for willful misconduct or gross debt as regarded liable by Dutch law.

8.4. Outside paragraph 2 and 3 of this article, rests on Unwind no liability for damages, regardless of the grounds on which an action for damages would be based.

8.5. Unwinds liability for attributable breach of contract occurs only if the client immediately and properly informs Unwind in writing or by e-mail, including written confirmation of receipt of the notice by Unwind. The client should give Unwind a reasonable period to discharge and respond to its obligation. The notice must give as detailed a description as possible of the shortcoming, so Unwind is able to respond adequately.

8.6. Unwind can never be held liable for damage caused by the client own servers placed in the network of Unwind, unless otherwise stipulated in the agreement.

8.7. Condition for the existence of any right to damages is that the client reports damage as soon as possible but no later than six months after the discovery in writing and confirmed receipt for Unwind by email.

8.8. In all cases the liability of Unwind is limited to the amount which they can reasonably assure.

9. Fair use, content and data traffic

9.1. The client is not allowed to resell the service and / or re-lease, unless otherwise agreed.

9.2. The client should ensure that the service and any associated server is equipment used carefully. The client will observe and adhere to any instructions giving by Unwind for using the service and any associated equipment.

9.3. The client is not permitted to use equipment or software, which can cause damage to the service, to equipment or software of a third party of Unwind. In particular, the client is not allowed to run background processes on virtual servers that hamper the performance.

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9.4. The use of the provided service and / or delivery for purposes as considered less permissible, including the unsolicited circulation of e-mail (otherwise known as spam), making available (child) pornography, spreading computer viruses, deep link to web pages that are not allowed to be deep linked. Also cracking or hacking of Unwind's software or servers is seen as a culpable shortcoming and can lead to immediate dissolution of the agreement. This published list is not exhaustive.

9.5. If the client uses more data traffic than previously agreed, then the client compensates according to the then current going rates, unless otherwise agreed.

10. Force majeure

10.1.   Force majeure shall mean all exterior causes being reasonably unforeseeable and as a result of which Unwind unable to fulfill its obligations towards the client. Such circumstances are interruptions in the services or third-party networks, hackers, crackers and failure of electricity supply to Unwind.

11. Uptime

11.1.   Unwind guarantees a network uptime of 98%.

11.2.   Unwind guarantees an uptime of 95% on shared accounts.

11.3.   If these percentages cannot be achieved, a discount for the service is up for discussion for the the following month. Unwind is not liable for damages suffered by downtime.

11.4.   Force majeure is excluded from the uptime guarantee.

11.5.   If client wishes to obtain additional guarantees in respect of uptime, the client may wish to formulate a separate agreement beside the main agreement. This is called a Service Level Agreement. This is done in consultation and dialogue between Unwind and the client. Even on a Service Level Agreement, these general conditions apply in full.

12. Access codes

12.1.   The client must observe secrecy in relation to the access codes that were send by Unwind and must protect them effectively.

12.2.   If the client knows or fears that he no longer solely owns the access codes and that a third party may also possess them, this must be reported to Unwind immediately.

12.3.   Client is liable for damage caused by access codes being possession of third parties, even if this occurs during transmission of these codes to the client. Client is liable for use of access codes by third parties.

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13. Warranty

13.1.   During the period of forty days after delivery, Unwind will try to rectify any faults to the best of its ability, if the previously agreed specifications are met.

13.2.   In the event of operating errors caused by a third party or another not to Unwind attributable cause, can result in additional cost for the client. Recovery of any lost data is therefore not covered under warranty.

14. Payment

14.1.   Client pays within the time limit shown on the invoice or agreed upon. If payment is not specified, payment by the client within 14 days after the invoice date.

14.2.   Unless otherwise agreed upon, payments are always prior to the commencement of a period of service.

14.3.   Unwind is always entitled on advances to billing or can demand security or proof that client can pay future invoices.

14.4.   If no or no-timely payment occurs client will be in default without any further notice is required.

14.5.   Failure to meet the payment deadline, Unwind is entitled to close any or all services till payment has happened. Any hardware of the party which is stationed at Unwind, will be placed in custody for a period of 14 days. If the client after that period is still in default, this hardware can be used by Unwind to demand payment for the outstanding accounts of client. The value of the hardware will be estimated at 50% of current market value. If the client after such claim is still in default, will the remainder of Article 14.6 apply.

14.6.   If the client is in default, the client is owed an interest at the statutory rate plus 2% per year. In addition to this, the client then also owes collection charges. These amount to 15% by the other party owed a minimum of € 250, – (two hundred and fifty Euro).

14.7.   If Unwind has to make more costs that are reasonably required, that exceed in the preceding paragraph displayed collection costs, the other party must also pay these costs to Unwind.

14.8.   Unless agreed otherwise, hosting runs for the entire period and must be paid for the invoiced amount on the first of the month to which the period runs, credited to the account of Unwind.

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15. Duration of contract

15.1.   A contract for paid services, unless otherwise agreed in writing, is always for a limited period of time. The minimum contract term for web hosting, email and domain names is a year. Unless Unwind receives a written notice, this period is automatically renewed. (by Dutch law) The client can only terminate the contract in writing, in advance of two months of the date the period is renewing.

15.2.   A contract for paid services by the client and Unwind can only be terminated indefinitely in writing with a notice period of two months. If the other party pays a fee for a period exceeding two months, the other party is not entitled to a refund of previously paid and / or discount on the outstanding.

16. Alteration of general terms and conditions

16.1.   Unwind has the right to modify the terms and conditions, without prior notice to the client. The most recent version of the terms and conditions will always be available on the website of Unwind. The client can object to these new conditions up until 30 days after the release of the new conditions. If the client does not object it will automatically accept the new terms and conditions.

17. Dissolution

17.1.   Unwind may terminate this Agreement without notice or judicial intervention when:

– The bankruptcy of the client is pronounced;

– counter party moratorium, or that this is granted to him;

– client loses by attachment or otherwise the competence of its assets or a substantial part thereof

– Unwind has reasonable grounds to doubt the ability of other party (in time) to meet its obligations;

– client exceeded the term for payment.

17.2.   Following the dissolution of the agreement, Unwind reserves the right to immediately cancel the usage rights granted.

18. Proof

18.1.   The log files and other electronic or administration Unwind provides is full evidence of the propositions of Unwind.

18.2.   By "writing" in these conditions can mean also "in the form of electronic text".

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19. Jurisdiction and applicable law

19.1.   Dutch Law applies to each agreement between Unwind and client. Also, the Dutch "Algemene Voorwaarden" are leading in case of a dispute. This document is an English translation of that document, only for convenience of the client.

19.2.   All disputes relating to, arising out of or related to Unwind with quotations and agreements will be submitted to the District Court of Amsterdam, unless the dispute falls within the competence of the subdistrict of the Amsterdam District Court. This condition acts exclusively in favor for Unwind.