

# Rootsteps General Terms & Conditions

Registered with the Chamber of Commerce in The Hague under number **57924619** with VAT number **NL852794484B01**.

## **Article 1: definitions**

**1.1** "Client": any legal entity or person, or its/his/her representative(s), agent(s), successor(s) in title and beneficiaries, which/who entered or who wants to enter into an agreement with Rootsteps.

**1.2** "Contractor": Rootsteps, registered with the Chamber of Commerce in The Hague under number 57924619

## **Article 2: Applicability**

**2.1** These general conditions apply to all offers, bids, agreements, contracts, deliveries, and other activities that are carried out by or on behalf of Contractor.

**2.2** These conditions also apply to all contracts where Contractor engages third parties to carry out that contract.

**2.3** The general conditions of Client do not apply to an agreement entered into with Contractor.

**2.4** If a provision of the agreement or the general conditions are void, the entire agreement is not invalid. In that event, Contractor is entitled to replace this provision with a provision which approaches the parties' intention of the void provision as closely as possible, provided it is not unreasonably onerous for Client.

## **Article 3: Offers and acceptance**

**3.1** All offers of Contractor are subject to confirmation, unless Contractor has expressly stipulated otherwise in writing.

**3.2** All offers become invalid 14 days after these were communicated to Client, unless stated otherwise. Contractor is only bound by the offer if the acceptance of that is confirmed by the other party in writing (by letter or email) within 14 days. If the acceptance takes place after 14 days, Contractor is entitled to change the completion time or amounts. The prices stated in the

offers (and proposals) are exclusive of VAT, unless indicated otherwise.

**3.3** All specifications with respect to numbers, options, and prices provided by Contractor are prepared with great care. Contractor cannot exclude any discrepancies and therefore does not provide any guarantees with respect to this.

#### **Article 4: Commencement of the agreement**

An agreement is concluded on the day that Client confirms the offer of Contractor. This needs to take place within 14 days after the offer was made. If this period is exceeded, Contractor is entitled to change the amounts or completion time.

#### **Article 5: Extra work**

**5.1** Contractor performs work on the basis of a fixed fee or price agreement, agreed beforehand. Changes to the project proposal or offer at the request of Client and after the price has been set could result in a price adjustment by Contractor. Contractor reserves the right at all times to not implement changes and/or corrections.

**5.2** Contractor is entitled to charge for extra additions, hardware, tests, meetings and/or performances that take place at the request of Client.

#### **Article 6: Performance**

**6.1** Contractor will carry out the agreement to its best insight and ability. Contractor will endeavor to perform the work properly. However, Contractor cannot guarantee that the work will always reach the result desired by Client.

**6.2** Contractor is entitled to subcontract certain work to external parties.

**6.3** Client is obligated to provide all information necessary to carry out the agreement to Contractor in a timely manner. The necessity of information is stated in a request of Contractor to Client to provide this information or follows from the nature of the information of which Client should reasonably understand that these are necessary to carry out the agreement. Client is responsible for the accuracy and completeness of the information

it provided. In the event that Contractor does not receive the information on time, Contractor reserves the right to terminate the performance of the agreement temporarily or permanently. A delay caused by the late delivery of information by Client creates costs that will be invoiced by Contractor to Client according to Contractor's regular rates.

**6.4** Client ensures that the material that is made public does not violate Dutch legislation and regulations and the Dutch Advertising Code and does not infringe any rights of third parties. The information, texts, and images provided by Client need to respect intellectual property rights. Contractor can refuse or terminate the agreement or assignment if the material does not meet these requirements, according to Contractor.

**6.5** If it is agreed that the agreement will be performed in phases, Contractor is entitled to suspend the performance of those parts that are part of a next phase until Client has approved the results of the prior phase in writing and has paid the invoice for that work.

## **Article 7: Completion**

**7.1** If a period was agreed for the completion of certain work during the duration of the agreement, this period is only an indicative period and is never a final deadline, unless explicitly agreed otherwise in writing.

**7.2** If Contractor expects that a certain deadline will not be met, it will inform Client of this as soon as possible.

## **Article 8: Change**

**8.1** If it turns out during the performance of the agreement that it is necessary to change or supplement the work performed to ensure the quality of the result, parties will amend the agreement accordingly in a timely manner and in consultation.

**8.2** If parties agree that the agreement is changed or supplemented, it is possible that the completion period will be extended because of this, resulting in a delay of the project. Contractor will inform Client of this as soon as possible.

**8.3** If the changes or supplements of the agreement have financial and/or quality related consequences, Contractor is entitled to

charge Client with the costs of this. Contractor will inform Client of this beforehand.

**8.4** A change or supplement of the agreement can lead to an adjustment of the fees that were agreed beforehand. Contractor will inform Client of the effect on the fees in the event that the changes are implemented.

## **Article 9: Fees**

**9.1** All prices and estimated costs are excluding VAT, unless stated otherwise.

**9.2** If no fixed fee is agreed, the fee will be set based on the hours spent. The fee is calculated according to the customary hourly rates of Contractor effective in the period during which the work is performed, unless a different hourly rate is agreed.

**9.3** For assignments that take more than three months, the work performed or services delivered will be charged every month, unless expressly agreed otherwise in writing.

**9.4** Prices are based on the factors applicable at the time of the statement or conclusion of the agreement (amongst others), including wages, social and fiscal charges, contributions, insurance premiums, etc. If there are changes in these or other price determining factors after the statement or conclusion of the agreement and before the services are completed or before the delivery, Contractor is entitled to adjust the prices it used and to invoice Client, if at least 3 months have expired since the commencement date of the agreement.

**9.5** For assignments where it is agreed that Client uses a product or service of Contractor under a subscription or license, the use of this will be charged monthly, unless explicitly agreed otherwise.

## **Article 10: Confidentiality**

**10.1** Parties have a duty to maintain the confidentiality of all confidential information, concepts, formats, or ideas acquired in the framework of the agreement from each other or another source, irrespective of this is provided in writing or orally, and irrespective from whom this was received. Information is considered to be confidential if the other party has stated that

this is the case or if this ensues from the nature of the information. Concepts, formats, and ideas are always considered to be confidential.

**10.2** Contractor is allowed to provide the name and logo of Client as a reference and to disclose this as such.

**10.3** The (personal) data that are provided to Contractor via the site of Contractor, are treated confidentially. This information is not provided to third parties.

**10.4** Client gives its consent to Contractor to include his/her/its personal data in the register of personal data of Contractor which is needed for its administration. This registration of personal data includes account as well as traffic information and can only be accessed by Contractor and is not provided to third parties, unless Contractor is obligated to do so pursuant to legislation or a judicial decision.

## **Article 11: Exclusivity**

**11.1** Client will not use other parties to carry out the agreement. Contractor will therefore get the exclusive right to carry out the assignment when the agreement is entered into.

## **Article 12: Intellectual property rights**

**12.1** The copyrights and other intellectual property rights on all services provided and goods developed by Contractor belong to Contractor, unless explicitly agreed otherwise in writing. Client is aware of this and will not infringe these rights.

**12.2** All information provided by Contractor, such as (digital) reports, concepts, data, checklists, advice, formats, designs, sketches, software, applications, etc. are exclusively meant to be used by Client. Client is not allowed to disclose and/or reproduce information received from Contractor in any form, including, selling, editing, making available, distributing and (whether or not after editing) integrate it in networks, unless such disclosure and/or reproduction is allowed in writing by Contractor and/or such disclosure and/or reproduction ensues from the nature or the purpose of the agreement with Contractor.

**12.3** Contractor retains the right to use the knowledge gained from the performed work for other purposes provided that no

confidential information of Client is disclosed to third parties in doing so.

**12.4** Client indemnifies Contractor against all claims of third parties with respect to intellectual property rights with respect to the disclosure and/or reproduction of the texts, images, or other information provided to Contractor by or on behalf of Client.

**12.5** If the Client acts in violation of paragraph 1 and / or paragraph 2 of this article, the Client will owe an immediately payable penalty in the amount of three times the amount stipulated for that agreement, without prejudice to the right of Rootsteps to compensation.

### **Article 13: Contract period and termination**

**13.1** An agreement is entered into for an indefinite period of time, unless parties expressly agreed otherwise in writing.

**13.2** An agreement for a specified period cannot be terminated early.

**13.3** After the duration of the agreement for a specific period, the contract period will be renewed automatically with the same period when Client did not terminate the agreement in writing or did not observe a termination period of two (2) months.

**13.4** Contractor can immediately terminate the agreement in part or full without a notice of default and without judicial intervention with a written notification if Client is granted a suspension of payments (whether or not provisionally), if the bankruptcy of Client was requested or if his/her company is wound up or terminated other than for the purpose of a reconstruction or merger of companies. Contractor will never be obligated to pay any damages for termination for these reasons. If Client has already received performance when the agreement is terminated, this performance and the payment obligation concerned will not be subject to a reversal, unless Contractor is in default with respect to that performance. Amounts that were invoiced by Contractor for things delivered or performed in the course of the performance of the agreement prior to the termination, will be fully due with due observance of the provisions of the last sentence and will become immediately due and payable at the time of the termination.

**13.5** If Client wants to cancel an agreement after it has been concluded, for whatever reason, and Contractor has agreed with this termination, Client owes 75% of the order price (excluding VAT) as cancellation charges, without prejudice to the right of Contractor to full compensation of damages, including lost income.

#### **Article 14: Payment**

**14.1** Payment needs to take place within 14 days after invoice date, using the method indicated by Contractor, in the invoiced currency, without any discount or deduction. Client is not entitled to compensation or suspension. The value day indicated on the giro/bank statement of Contractor is determining and is therefore considered to be the payment day.

**14.2** Connectivity and management agreements as well as other subscriptions are invoiced beforehand per month, per quarter, or per year, as agreed.

**14.3** Maintenance contracts and licenses are invoiced beforehand per month, per quarter, or per year.

**14.4** Client is in default without a demand being required after the final payment term of 14 days after the invoice date has expired. Client is in default from that date and owes interest on the payable amount of 1% per month, unless the legal interest is higher, in which case the legal interest applies, from the moment of the default.

**14.5** In the event of winding up, bankruptcy, or suspension of payments, the claims of Contractor and the obligations of Client towards Contractor become immediately due and payable.

**14.6** The amounts specified on the invoice will be considered to have been approved by Client, unless Client submits a written objection within 5 days after the date of the invoice.

**14.7** All reasonable costs incurred to obtain an out-of-court settlement or settlement in court are for Client if Client is in default with one or more of his/her obligations. Contractor is entitled to charge extrajudicial collection costs in the amount of 15% of the outstanding amount, with a minimum of €250, excluding VAT, without prejudice to its right to claim the full collection costs from Client.

**14.8** Contractor is entitled to (temporarily) close down products and services, and/or to limit the use of products and services

if Client fails to comply with an obligation towards Contractor, after this was pointed out to Client and after Contractor sends a demand letter, or if Client violates these general delivery conditions. Contractor will inform Client beforehand of this, unless this cannot be reasonably required from Contractor. The obligation to pay the payable amounts continues to exist during this close down. The products and services will be made available again after Client fulfilled his obligation within the period set by Contractor and the amount of €100, excluding VAT, for making the products and services available again is paid.

## **Article 15: Liability**

**15.1** Unless there is an intentional act or gross negligence by Contractor, Contractor is not liable for any damages suffered by Client or any third party as a result of a breach by Contractor or its employees or third parties engaged by Contractor, expressly not including an intentional act or gross negligence by third parties engaged by Contractor.

**15.2** Contractor is never liable for damages suffered by Client caused by: a) errors in advice, materials and/ or automated files provided by Contractor; b) data and reports and data to be provided by Client no longer being available or not being available on time. c) due to pictures, texts, images or other data provided by Client and/or illegal use thereof by Client; d) for the content of advertisement or publications of other clients or authors or third parties in the same or another edition, section and/or elsewhere in the electronic service, which could impair the purpose of its publication intended by Client; e) due to a failure of the electronic services of Contractor and of third parties, such as providers, network operators or other telecommunication networks, and a breach of the obligations of the suppliers of Contractor. f) a faulty and/or slow and/or not working and/or technically faulty internet connection of Client; g) a breach by Client of the obligations, guarantees or statements mentioned in the agreement or these general conditions.

**15.3** If Contractor is liable for damages suffered by Client (with due observance of the previous paragraphs), this liability will always be limited to the invoice value of that specific part of the agreement to which the liability pertains. Liability for each form of consequential damage, including lost profits, business



interruption loss, reputational damage or loss of profits, is expressly excluded.

**15.4** Each complaint with respect to the performance or the lack of performance of any assignment needs to be specified clearly by Client and needs to be submitted to Contractor in writing within 14 days after this arose or became known. Claims or damage that were not reported within this term will not be considered and/or compensated. In any case, the time limit period of all legal claims of Client on Contractor expires after one year, beginning on the day that the relevant obligation from the agreement becomes due and payable and/or the event that caused damage took place.

**15.5** Contractor provides advice to the best of its knowledge. However, Contractor does not accept any liability for advice provided. Provided advice never releases Client from its obligation to research the suitability of the goods to be delivered and/or services provided for the intended purpose.

**15.6** Contractor also excludes any liability with respect to the operation and any (consequential) damage in the event that Client or a third party makes changes in the software developed or hardware delivered by Contractor.

**15.7** The liability of Rootsteps will never exceed the amount that Rootsteps' liability insurance pays out.

**15.8** A condition for the existence of any right to compensation is always that the Client reports the damage to Rootsteps in writing as soon as possible after it has arisen. Any claim for compensation against Rootsteps lapses by the mere lapse of twelve months after the claim arose.

**15.9** Rootsteps is not liable for damage caused by auxiliary persons as referred to in article 6:76 of the Dutch Civil Code.

## **Article 16: Force Majeure**

**16.1** Contractor is not liable in the event of force majeure. In addition to what is defined in legislation and jurisprudence, in these general delivery conditions force majeure shall mean all external causes, foreseen and unforeseen, that cannot be influenced by Contractor, but that results in Contractor not being able to comply with its obligations. In any case, force majeure will include: strike, excessive sickness absence of personnel,

fire, company and technical failures within the office or at external parties engaged by Contractor, not having enough information or providing incorrect information (at the discretion of Contractor), or the lack of sufficient cooperation by Client.

**16.2** In the event of force majeure, Contractor is entitled to consider the agreement (fully or partially) terminated and/or terminate the agreement (fully or partially), or to cancel the assignment without being obligated to pay any damages to Client. In this event, Contractor is obligated to immediately notify Client of this.

**16.3** If Contractor can partially comply with its obligations with the commencement of the force majeure, it is entitled to invoice the part that has already been performed and/or that can be performed separately and Client is obligated to pay this invoice as if it were a separate agreement.

#### **Article 17: Transfer, changes and additions of the agreement**

**17.1** Neither party is entitled to transfer the rights and obligations from this agreement without the written consent of the other party. Changes and additions to this agreement are only valid if agreed between parties in writing.

#### **Article 18: Development of software and applications**

**18.1** If specifications or a design of the software and applications to be developed were not provided to Contractor with the conclusion of the agreement, parties will specify in consultation and in writing what software will be developed and the way in which this will take place. Contractor will develop the software with care based on the information to be provided by Client. Client ensures the accuracy, completeness, and consistency of this information. If parties agreed the use of a development method that is characterized by the fact that the design and/or the development of parts of the software is subject to a further prioritization, to be determined during the performance of the agreement, this prioritization will take place in consultation between parties.

**18.2** Contractor is entitled, but not obligated, to examine the accuracy, completeness or consistency of the information, specifications or designs it was provided, and can suspend the

agreed work if it finds any inadequacies until Client has solved this.

**18.3** Client is only entitled to use the software in its own company or organization. The source code of the software and the technical documentation created with the development of the software can be made available to Client if and insofar as this is expressly agreed in writing, in which case Client is entitled to make changes in this software. In the event that Contractor can be obligated judicially to provide the source code and/or technical documentation to Client, Contractor is entitled to charge a reasonable fee for this.

**18.4** The user right of applications and software is not transferable. Client is not allowed to sell, lease, sublicense, dispose software and carriers of this software, or to create a limited right to this or to make this available to a third parties in any way or for any purpose whatsoever, or to give a third party access (whether or not remote) to the software or to have a third party act as a host, also not if the third party concerned only uses the software for the benefit of Client. Client will not change the software, other than in the framework of correcting errors. Client will not use the software in the framework of processing data for the benefit of third parties ('time-sharing'). The source code of the software and the technical documentation created with the development of the software are not made available to Client, also not if Client is willing to pay for this. Client acknowledges that the source code is confidential and that this contains trade secrets of Contractor.

**18.5** Contractor is not liable for the security of the data that is stored.

## **Article 19: Hardware**

**19.1** Contractor delivers the hardware, advice, and accompanying specifications that allows Client to make its bicycles suitable for building in the hardware, unless expressly agreed otherwise in writing.

**19.2** Client will assemble the hardware itself on the production location and make it user-ready for application in the bike.

**19.3** Guarantee Contractor provides a one year guarantee on the hardware, after the date of the activation of the hardware. Client will receive a new copy if the hardware does not work, within one

year after the module went online. Contractor will deliver replacement hardware to Client within four weeks after a written notification. Client will replace the module itself and is obligated to send the defective module to Contractor within four weeks after receipt of the replacement module.

**19.4** The accuracy of the GPS devices is fairly good, but Contractor does not guarantee that this is 100% accurate. Small deviations are possible.

#### **Article 20: Applicable law**

**20.1** Dutch law applies to all agreements between Client and Contractor.

#### **Article 21: Location of these general terms & conditions**

**21.1** These conditions can also be downloaded on the website of Rootsteps: [rootsteps.nl](http://rootsteps.nl)