

## General terms and conditions

### Baseflow B.V.

#### Article 1. Definitions

- 1.1. These general terms and conditions use the following definitions, unless expressly indicated otherwise, or determined otherwise by the context:
  - a. Baseflow: the user of these general terms and conditions: Baseflow B.V., with registered offices at Gronausestraat 710 in Enschede, registered with the Chamber of Commerce with CoC number 71659374;
  - b. client: the legal entity or natural person who acts in the pursuit of his profession or company which or who has concluded an agreement with Baseflow;
  - c. agreement: the agreement between Baseflow and the client;
  - d. work: all work to be performed by Baseflow for the benefit of the client;
  - e. design: the design, the logo, and the corporate identity created by Baseflow based on the contract granted by the client;
  - f. software: the custom software, including the application and the website, developed by Baseflow based on the contract granted by the client;
  - g. content: texts, videos, pictures, audio fragments, images, corporate identity, logos, trademarks, and the like provided by the client related to the development of the software or published by the client using the software;
  - h. materials: all forms of advice, proposals, reports, analyses, and advertising and marketing campaigns provided or created by Baseflow in the context of the agreement.

#### Article 2. General

- 2.1. All quotations, agreements of/with and (follow-up) contracts granted to Baseflow for the performance of work and/or the provision of services are exclusively governed by these general terms and conditions.
- 2.2. Any (purchase) conditions used by the client will only apply if these (purchase) conditions have expressly been accepted by Baseflow in writing.
- 2.3. If any provision of these general terms and conditions is found to be null or invalid, the other provisions will remain in force. Baseflow will replace the invalid or void provisions, in which respect the purpose and scope of the original provision(s) will be observed as much as possible.
- 2.4. Any deviations from and/or additions to these general terms and conditions will only be valid if expressly agreed in writing or by e-mail.
- 2.5. Baseflow has the right to amend or supplement its general terms and conditions at any time, or to remove sections from these general terms and conditions, and to declare the amended general terms and conditions applicable to the existing agreement. The client will be informed of the amended general terms and conditions and their effective date in writing or by e-mail.
- 2.6. If Baseflow does not always require strict compliance with these general terms and conditions, this will not mean that these general terms and conditions are no longer applicable, or that Baseflow loses its right to claim strict compliance with these general terms and conditions in later, whether or not similar, events.
- 2.7. These general terms and conditions will be provided at no cost upon request. The conditions can also be found online and can be downloaded through the Baseflow website ([https://baseflow.com/terms\\_conditions/terms\\_conditions.pdf](https://baseflow.com/terms_conditions/terms_conditions.pdf)).

#### Article 3. Quotations

- 3.1. Any quotation issued by Baseflow will be non-binding with respect to the price and delivery period indicated in the quotation, as well as in all other aspects.
- 3.2. All prices and amounts will be in Euro and not include turnover tax (VAT) and other government levies.
- 3.3. The client is responsible for the accuracy and completeness of the requirements and specifications of the performance and all information used by Baseflow for the offer.
- 3.4. Baseflow cannot be held to its offer if the client can reasonably understand that this offer, or a part thereof, contains an obvious mistake or error.

- 3.5. A compound sales quotation does not require Baseflow to implement a part of the contract at a corresponding part of the quoted price.
- 3.6. If no agreement is concluded based on the quotation, the quotation and all accompanying documents should be immediately returned to Baseflow by the client at its expense and risk in response to the first request to this end by Baseflow. The quotation issued to the client by Baseflow and the associated documents and designs will remain the property of Baseflow and may not be used, copied, or published without permission of Baseflow.

#### **Article 4. Conclusion of the agreement**

- 4.1. The agreement will be concluded at the moment the client grants a work order to Baseflow in the context of a framework agreement and Baseflow accepts this work order by means of an order confirmation or at the moment the client accepts the offer of Baseflow by e-mail.
- 4.2. Once an agreement is concluded between the client and Baseflow, the client will owe the full amount of the quotation and/or the fee due to Baseflow for the implementation of this agreement and/or order, irrespective of whether the client revokes and/or cancels its order before, during, or after the implementation of the order.

#### **Article 5. Implementation of the agreement**

- 5.1. Baseflow will always do the utmost to implement the agreement as diligently as possible, to represent the interests of the client to the best of its ability, and to endeavour to achieve a result which can be used by the client. Insofar as necessary and/or desired, Baseflow will keep the client informed of the progress of the work performed to implement the agreement.
- 5.2. The parties will agree on the specifications of the software to be delivered in writing or by e-mail.
- 5.3. Baseflow has the right to outsource certain work to third parties without informing the client.
- 5.4. Baseflow may depend on (online) services, websites, or software of third parties for the implementation of the agreement.
- 5.5. Baseflow will during the implementation of the agreement strive not to infringe on rights of third parties, applicable statutory regulations, codes of conduct, self-regulating rules, and guidelines through the use of materials and software, insofar as Baseflow is or could reasonably have been aware of these.
- 5.6. If the use of the materials and software used by Baseflow is limited or banned, Baseflow will, at its discretion:
  - a. Introduce a replacement to ensure that the rights of third parties are no longer violated; or
  - b. Change or adjust the materials and software used by it to ensure that the rights of third parties are no longer violated; or
  - c. Acquire a right of use for the client, in which respect the associated costs will be borne by the client.
- 5.7. Without prejudice to the other provisions of these general terms and conditions, the client will in a situation as referred to in Article 5.6 not have the right to revoke, cancel, or otherwise terminate the agreement, or to suspend its payments.

#### **Article 6. Obligations of the client**

- 6.1. The client will ensure that all data indicated by Baseflow as necessary for the implementation of the agreement, or of which the client should reasonably understand the necessity, are made available to Baseflow on time.
- 6.2. The client is responsible for the accuracy, completeness, and reliability of the data provided by it, even if these are provided by third parties.
- 6.3. The client will provide Baseflow with all content necessary to be able to develop the software in accordance with the agreed specifications.
- 6.4. The content must meet the specifications prescribed by Baseflow.
- 6.5. The client bears the risk for damage caused by:
  - a. Inaccuracies in the instructed work;
  - b. The delivered content;
  - c. Publication of the content due to which applicable laws are violated, such as the distribution of materials protected by copyright.

- 6.6. If the client provides information carriers, electronic files, or software to Baseflow, the client guarantees that these do not infringe on property rights or copyrights of third parties, and that the electronic files and the like are free from viruses and defects.
- 6.7. The client is responsible for the use and correct application of the software within its organisation, and for the observance of the instructions and/or advice given by Baseflow.
- 6.8. The client is responsible for the proper functioning of its equipment and other technical facilities which must be used to access and use the software.
- 6.9. The client will indemnify Baseflow against any claims by third parties which have suffered damage related to the implementation of the agreement attributable to the client.

**Article 7. Changes to invoice address or relocation**

- 7.1. If the client relocates or if its invoice address changes, the client must inform Baseflow of its new location and/or new invoice address in writing or by e-mail in advance and as soon as possible.

**Article 8. Amendments to the agreement**

- 8.1. If work must be amended or supplemented to ensure proper its implementation, the parties will promptly and mutually decide to amend the agreement.
- 8.2. Baseflow will inform the client if the amendment or supplement to the agreement has financial and/or qualitative consequences.
- 8.3. If a fixed fee has been agreed on, Baseflow will indicate whether and to what extent the amendment or supplement to the agreement leads to an adjustment of this fee.

**Article 9. Delivery period**

- 9.1. Stated delivery periods are indicative and cannot be considered deadlines. Exceeding a delivery period does not give the client the right to claim compensation or dissolution.
- 9.2. With respect to delivery periods or schedules agreed during the implementation of an agreement and/or order, Baseflow will at least have the right to an extension of the period within which the software will be delivered, without owing any amounts, or without Baseflow being required to reduce its fee, if this is due to force majeure, circumstances caused by – and which costs must be borne by – the client, or due to changes to the agreement or the implementation conditions, based on which Baseflow cannot be required to deliver the software within the agreed period.
- 9.3. Circumstances which consequences must be borne by the client that will lead to an extension of the aforementioned period include, but are not limited to, the failure to provide the requested/correct information and content (on time).

**Article 10. Prices and fees**

- 10.1. If the quotation or offer includes a “fixed” fee, this will be considered the agreed price. If the quotation or the offer does not include a “fixed” fee, the amount due by the client will be determined based on actual hours spent in accordance with the hourly rates in effect at Baseflow.
- 10.2. If the work is performed based on the hourly rate of Baseflow, an estimate of the number of hours needed to implement the order will be made at the request of the client. No rights can be derived from this estimate.
- 10.3. Baseflow has the right to change the rates. These changes will be announced to the client in writing or by e-mail no later than 1 month before their effective date.
- 10.4. Baseflow may only increase an agreed fixed fee when it becomes clear during the execution of the work that the originally agreed or expected amount of work has not been sufficiently assessed when concluding the agreement, and this is not attributable to the Baseflow, and Baseflow cannot reasonably be expected to carry out the agreed work for the originally agreed fee.

**Article 11. Invoicing and payment**

- 11.1. Invoicing will take retrospectively on a monthly basis.
- 11.2. Payment must take place within 30 days of the invoice date.
- 11.3. If the client continues to fail to complete the payment within the stipulated payment period, the client will be in default by operation of law. In this case, the client will from the date on

which the due sum has become exigible until the time of payment owes the statutory commercial interest to Baseflow. All collection costs arising from the moment of default of the client, both judicial and extrajudicial, will also be borne by the client. The fee for extrajudicial collection costs will be 15% of the principal due with a minimum of € 150.

- 11.4. Payments made by the client will first be used to settle the owed interest and costs, and then to settle the oldest invoices, even if the client indicates a different allocation order.
- 11.5. The client does not have the right to settle or suspend a payment.

#### **Article 12. The software**

- 12.1. With the exception of any warranties that cannot be excluded by law, the software will be made available to the client as-is without any form of warranty.
- 12.2. The client will not be entitled to any updates after the delivery of the software, unless the parties have agreed otherwise, for example using a maintenance agreement or a framework agreement.
- 12.3. Baseflow is not liable for any damage whatsoever due to wrong or incompetent use of the software and due to use of the software in violation of the usage instructions or technical specifications.

#### **Article 13. Intellectual property rights**

- 13.1. Baseflow is and remains the full and exclusive beneficiary concerning the intellectual property rights on the materials, such as copyrights. Without the prior permission of Baseflow, materials provided by Baseflow may not be published, copied, placed online, or shared with third parties, unless otherwise required by the nature of the documents.
- 13.2. The client must always respect the intellectual property rights of Baseflow.
- 13.3. The intellectual property rights related to content will be vested with the client or its licensors. The client grants Baseflow a non-transferable license to the content for the sole purpose and the duration of the development and delivery of the software.
- 13.4. After the client has met all its financial obligations vis-à-vis Baseflow, the copyrights to the design and the software will be transferred to the client. The copyrights to default software will not be transferred to the client.
- 13.5. With due observance of the interests of the client, the Baseflow is free to use the design and the software for its own publicity or promotion, for example by placing an image of the design on its website. Baseflow has the right to place the name and logo of the client on its website as a customer of Baseflow.
- 13.6. By giving an order to disclose or copy objects provided by or on behalf of the client that are protected by the Dutch Copyright Act or any other statutory scheme in the field of intellectual property, the client declares that this does not infringe on any statutory regulations and protected rights of third parties, and indemnifies Baseflow against claims by third parties or for the direct and indirect consequences, both financial and otherwise, arising from the disclosure or copying.

#### **Article 14. Usage and/or license conditions**

- 14.1. The delivery can consist of software or online services not provided by Baseflow but by a third party. In this case, the scope of the license of this software or online service will be determined by the usage and/or license conditions of the licensor of this software or these online services.

#### **Article 15. Investigation into the existence of rights**

- 15.1. The contract does not include any investigation concerning the existence of trademarks, drawing protection, or model protection, copyrights, and portrait rights of third parties. The same applies to any investigation concerning the possibility of such forms of protection for the client.
- 15.2. The client is responsible for verifying whether the materials it provides to Baseflow for the implementation of the agreement do not infringe on the trademarks, drawing protection, model protection, copyrights, or portrait rights of third parties.

#### **Article 16. Complaints**

- 16.1. The client must submit any complaints about the work performed to Baseflow as soon as possible after completion of the work in question.
- 16.2. If a complaint is well-founded, Baseflow will endeavour to perform the work as agreed, unless this has become demonstrably pointless for the client. This must be communicated to the client in writing.
- 16.3. If a defect in the software is caused by an act and/or omission of the client, all cost incurred by Baseflow to resolve the defect will be borne by the client.
- 16.4. If the performance of the agreed work is no longer possible or useful, Baseflow will only be liable within the limitations of Article 18.
- 16.5. Complaints do not suspend the payment obligation of the client.

#### **Article 17. Maintenance**

- 17.1. Baseflow does not guarantee that the software will operate without interruptions or errors. If the client wants Baseflow to resolve defects and/or interruptions in the software after the delivery, the corresponding agreements will be set out in a maintenance contract or the framework agreement. The contract concerning the development of software does not include the maintenance of the software.

#### **Article 18. Liability and limitation**

- 18.1. Baseflow cannot be held to pay compensation for any damage which is a direct or indirect result of:
  - a. An event that is beyond its control and thus cannot be attributed to it, as inter alia defined in Article 19.1 of these general terms and conditions;
  - b. Any act or omission of the client, its subordinates, or other persons who perform work for or on behalf of the client.
- 18.2. The client will always be responsible for the accuracy and completeness of all information it provides. Baseflow will never be liable for any damage (partially) caused by the inaccuracy and/or incompleteness of data, documents, and completed designs provided by the client. The client indemnifies Baseflow against any claims in this respect.
- 18.3. Baseflow will give advice in good faith and to the best of its ability, but it never accepts any liability for any damage directly or indirectly arising from the content of the advice given. The client is responsible for the decisions it makes, whether or not based on advice given by Baseflow.
- 18.4. The client is held to keep any copies of provided materials and data until the work has been completed. If the client fails to do so, Baseflow cannot be held liable for damage that would not have occurred if these copies had existed.
- 18.5. Baseflow rejects any liability if the client or a third party makes changes to the product delivered by Baseflow.
- 18.6. Baseflow can never be held liable for the operation of the software or (online) services of third parties.
- 18.7. Baseflow can in no way be held liable for the loss of the login codes used by the client. Baseflow will never be liable for damage or costs that are the result of abuse of login codes.
- 18.8. Baseflow will never be liable for any damage of any nature whatever suffered by the client in relation to the (un)availability of equipment, software, or (Internet) connections of the client.
- 18.9. Baseflow will not be liable for damage caused by hackers.
- 18.10. Baseflow will not be responsible for the content of the website of the client. The client must ensure that the content of its website does not violate the law and (copy)rights of third parties.
- 18.11. Any liability of Baseflow for consequential damage is excluded. Consequential damage in this context at least includes loss of profits, lost savings, turnover loss, costs incurred to prevent or determine consequential damage, loss of or damage to data, delay damage, reputation damage, labour costs, and imposed fines.
- 18.12. If Baseflow is found to be liable for any damage, this liability will be limited to the amount paid by the insurer of Baseflow. If the insurer does not provide payment in a given case, or if the damage is not covered by the insurance, the liability of Baseflow will be limited to the invoice amount, or the part of the contract to which the liability relates.
- 18.13. Baseflow will only be liable if the client immediately and properly holds Baseflow in default in writing, designating a reasonable period to remedy the shortcoming, and if Baseflow still

attributable fails to fulfil its obligations after this period. The notice of default must give a detailed description of the shortcoming in order to give Baseflow the opportunity to respond adequately.

- 18.14. Claims and other rights of the client, on any grounds, vis-à-vis Baseflow in relation to work performed by Baseflow expire at least 1 year after the moment the client became aware or could reasonably have become aware of the existence of these rights and powers.
- 18.15. If the client fails to properly or timely fulfil its contractual or statutory obligations or commits tort vis-à-vis Baseflow, the client must pay Baseflow all damage it has suffered as a result.

#### **Article 19. Force majeure**

- 19.1. Force majeure suffered by Baseflow will exist, inter alia, if Baseflow is prevented from fulfilling its obligations arising from the agreement or the corresponding preparations due to disruptions in Internet connections, virus infections or computer hacking by third parties, power outage, disruptions in e-mail traffic, weather conditions, natural disasters, traffic disruptions, strikes, war, terrorism, theft, fire, illness of the natural persons who implement the agreement on behalf of Baseflow, government measures, errors in software, website, or (online) services of third parties, and a non-attributable shortcoming of a third party hired by Baseflow.
- 19.2. Baseflow also has the right to invoke force majeure if the circumstances that prevent (further) fulfilment of the agreement occur after the Baseflow should have fulfilled its obligations.
- 19.3. The parties may suspend the obligations arising from the agreement during the period of force majeure. If this period lasts for more than 2 months, each party will be entitled to terminate the agreement without any obligation to pay compensation to the other party.
- 19.4. Insofar as Baseflow has partially met or will meet its obligations under the agreement at the moment the force majeure occurs and the performed or to be performed part has an independent value, Baseflow will have the right to invoice the already performed or to be performed part separately.

#### **Article 20. Dissolution and suspension**

- 20.1. Baseflow will have the right to suspend the fulfilment of its obligations, or to immediately dissolve the agreement by means of written or electronic notice, if:
- The client fails to (fully) meet its obligations arising from the agreement and fails to respond to a provided notice of default. A notice of default is not required if fulfilment is permanently impossible;
  - If Baseflow learns of circumstances – after the conclusion of the agreement – that give it reason to fear that the Client will not fulfil its obligations;
  - If the client is granted suspension of payments;
  - If the client is declared bankrupt;
  - If a statutory debt restructuring plan is declared applicable with respect to the client;
  - If the company of the client is liquidated or terminated for any other reason than an acquisition or a merger of companies.
- 20.2. Baseflow also has the right to dissolve the agreement if circumstances arise that make the implementation of the agreement impossible, or if its implementation can in all reasonableness and fairness no longer be expected, or if other circumstances arise due to which unaltered continuation of the agreement can no longer reasonably be expected.
- 20.3. If the agreement is dissolved, the claims of the Baseflow on the client will become immediately due and exigible. Baseflow will retain its rights granted by law and the agreement if it suspends the fulfilment of its obligations.
- 20.4. Baseflow will always retain the right to claim damages.

#### **Article 21. Confidentiality and processing of personal data**

- 21.1. The parties are held to observe the confidentiality of all facts and circumstances that have been disclosed to the other party in the context of the agreement and/or contract. Third parties that are involved in the implementation of the agreement will be bound to the same confidentiality concerning these facts and circumstances provided by the client.
- 21.2. Baseflow processes personal data in accordance with the General Data Protection Regulation (GDPR). The client can consult the Baseflow privacy policy for more information about the processing of personal data by Baseflow, available at <https://baseflow.com/privacy>.

**Article 22. Applicable law and competent court**

- 22.1. All agreements between Baseflow and the client will be governed by the laws of the Netherlands.
- 22.2. All disputes related to agreements between the client and Baseflow will be submitted to the competent court in the district where Baseflow is established.