



# **General Conditions for Services**

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Skillteam sprl/bvba

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## Article 1 Definitions

- a. **Agreement** means the following documents:
1. the present General Conditions for Services of Skillteam, and
  2. the Order and all additional or specific provisions incorporated either directly or by reference in the Order.
- b. **Business Day** means Monday to Friday, from 08:00 AM to 06:00 PM CET, except Belgian public holidays. A Business Day contains eight (8) business hours. Any reference to days other than Business Days shall be construed as calendar days.
- c. **Completion Criteria** means the detailed and written conditions listed in an Order for Project Services that Skillteam is required to meet to satisfy its obligations under the Agreement.
- d. **Derivative Works** means a work based on one or more pre-existing works, including, but not limited to, a condensation, transformation, translation, modification, expansion or adaptation of such pre-existing works, which, if prepared without authorization of the owners of the copyright of such pre-existing works, would constitute a copyright infringement under applicable law. A compilation incorporating Materials or Programs is also a Derivative Work.
- e. **Licensed Program** means a copyrighted Program, which is subject to the terms and conditions of a license agreement.
- f. **Machine** means a machine, its features, conversions, upgrades, elements, or accessories, or any combination of them.
- g. **Materials** means literary works or other works of authorship, such as programs, program listings, programming tools, documentation, reports, drawings and similar works that Skillteam may deliver to the Customer as part of a Service.
- h. **Non-Skillteam Product** means a Product acquired by Skillteam from another supplier and provided to the Customer without modification or adaptation.
- i. **Order** means an Order placed by the Customer and accepted by the Parties in accordance with their then current procedures. The Order specifies all additional provisions agreed upon between the Parties such as, but not limited to, the description of deliverables (Services, Materials, Skillteam and non-Skillteam Products), the Completion Criteria, the estimated delivery schedule and the applicable charges.
- j. **Parties** means Skillteam and the Customer, collectively.
- k. **Party** means either Skillteam or the Customer.
- l. **Product** is a Machine or a Program.
- m. **Program** means the following, including the original and all whole or partial copies:
1. machine-readable instructions and data; and

2. audio-visual content (such as images, text, recordings, or pictures).

The term Program includes any Skillteam Program and non-Skillteam Program that Skillteam provides to the Customer, but does not include Materials.

- n. **Related Company** means any corporation, company or other business entity:
1. which owns or will own, controls or will control directly or indirectly more than 50% of the voting shares of either Party; or
  2. where more than 50% of whose voting shares are owned or will be owned, controlled or will be controlled, directly or indirectly, by either Party or by a related entity as defined under paragraph n.1. above.

However, any such corporation, company or other business entity will be deemed to be a Related Company only so long as such ownership or control exists. "Voting shares" are outstanding shares or securities representing the right to vote at the ordinary shareholders meetings.

- o. **Service** means Skillteam's performance of a task, provision of advice or counsel, assistance, or access to a resource (such as access to an information database) made available by Skillteam to the Customer.
- p. **Skillteam** means Skillteam s.p.r.l./b.v.b.a., a company incorporated under the laws of Belgium and having its registered offices at 1030 Brussels, 89 avenue de Roodebeek.
- q. **Skillteam Product** means a Product marketed by Skillteam under its own name.

## Article 2 Services

Skillteam provides the following types of Services pursuant to an Order:

- a. **Support Services:** support provided by Skillteam to the activities of the Customer, who remains responsible for the control, management and supervision of the work, and for any results to be achieved. Support Services will terminate after an agreed upon duration or at a given date, or may be automatically renewed for a mutually agreed period. Support Services may also include maintenance Services for Machines performed by Skillteam's technical staff.
- b. **Project Services:** Skillteam is responsible for managing the project that may be subject to Completion Criteria, as specified in the Order. The following are examples of Project Services that may be provided by Skillteam:
1. Consulting Services, such as reengineering business processes, linking business and technology strategies, improving application development and information processing capabilities; and
  2. Custom Services, such as managing and performing project tasks to deliver Materials.

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Depending on their nature, Services may be performed either on a time and materials or fixed price basis. Renewable Services are subject to the provisions of Article 7 "Renewable Services".

### Article 3 Order

Each Order will include project specific elements such as, but not limited to:

- a. the content of the deliverables (Services, Materials, Skillteam and non-Skillteam Products);
- b. an estimated schedule, for planning purposes only, with the project milestones or phases and, if applicable, the Completion Criteria and acceptance procedure for each phase;
- c. the locations where the Services will be performed;
- d. the applicable rates, charges and any other terms; and
- e. the responsibilities of the Parties.

### Article 4 Changes to an Order

- a. At any moment during execution of the Agreement, either Party may request, in writing, a modification to the Order, such as, but not limited to, changes in the description of the Services or Products to provide, revision of the acceptance procedure and changes to the estimated delivery schedule or extension of Services after their scheduled termination. Within ten (10) Business Days after receipt of such request, the receiving Party shall provide a written reply to the other Party.
- b. In responding to any such demand from the Customer, Skillteam will indicate whether the change is practicable and, if applicable, how such change will impact the terms and conditions of the Agreement. Any modification to the Order may result in a change in the acceptance procedure, Completion Criteria, estimated schedule, charges and other terms and conditions of the Agreement.
- c. Depending on the extent and complexity of the changes requested by the Customer, Skillteam may charge for its efforts to analyse them. If such charges apply, Skillteam will give the Customer a written estimate and begin the analysis only on the Customer's written authorisation.
- d. If the change request is submitted by Skillteam, the Customer will notify Skillteam in writing of its decision either to authorise the modification and accept the resulting changes to the terms and conditions of the Agreement, or to reject it.
- e. In case of mutual agreement on the requested changes, Skillteam will prepare a written amendment to the Order called a "Change Authorisation" that will describe the requested changes and the effects on the terms and conditions of the Agreement. Any change arising out of a Change Authorisation will be effective only after its

signature by the Parties. The Change Authorisation will take precedence over the Order and any previous Change Authorisation.

- f. Pending agreement between the Parties on a change request, Skillteam will proceed in accordance with the then current authorised terms and conditions of the initial Agreement or with the last Change Authorisation accepted by the Parties.
- g. Should Skillteam not be able to perform, and thus accept, a reasonable change requested by the Customer, the latter may terminate the Agreement in accordance with the provisions of Article 8.1 "Termination for Convenience".
- h. Skillteam acknowledges that the notice provisions of section (a) of this Article 4 may not be practicable when the Customer requests temporary suspension of the Services for a limited duration and upon a very short notice. In such event, Skillteam may adjust the delivery schedule (including the dates of acceptance test) to reflect any impact of such temporary suspension on its organisation and commitments. Skillteam reserves the right to invoice compensatory charges, as specified in the Order, until regular performance of the Services is resumed.

### Article 5 Personnel

- a. Skillteam will assess the technical skills needed for meeting the project objectives and assign the personnel to perform the Services. Skillteam will make commercially reasonable efforts to meet the Customer's specific requests regarding the assignment of such personnel but reserves the right to determine such assignment in its sole discretion.
- b. All or part of the Services under an Order may be performed by personnel of Skillteam and its Related Companies, or subcontracted to independent contractors selected by Skillteam. Unless otherwise specified in the Order, any reference to Skillteam personnel includes Skillteam's Related Companies and subcontractors personnel.
- c. Unless otherwise agreed in the Order, Services are performed on Business Days only. Services that need to be performed in excess of eight (8) business hours or outside the business hours are subject to Skillteam's prior written consent.
- d. Based on the technical specifications of the Services and the applicable labour regulations, the Parties will agree on all required practical provisions such as, but not limited to, daily schedule of the personnel performing under the Order, planned absence for holidays or training, and replacement in case of unavailability. Such provisions will be detailed, if required, in the Order.
- e. Each Party will appoint an individual (the Project Manager) who has the authority to represent and bind the respective Party in connection with all aspects of the Agreement.

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- f. Each Party will be responsible for the supervision, direction and schedule of its own personnel and for any obligations related to that Party's employment contract with its personnel.
- g. The Customer agrees not to make an unsolicited, direct offer of employment to any personnel of Skillteam who have performed, are performing or are to perform on the Order, unless Skillteam agrees otherwise in writing in respect of any particular employee. This obligation shall apply during the entire duration of the Agreement and for twelve (12) months after its termination. In case of breach of this Article 5 (g), the Customer agrees to pay to Skillteam liquidated damages – covering hiring, training and other personnel costs as well as commercial damages resulting from Skillteam's contractual obligations – equal to twelve (12) times the total monthly wages (including social charges and benefits) that Skillteam paid for the hired employee during the last whole month prior to such employee's departure.

$S_1$  = the greater of  $S_0$  or the Agoria index for December of year (n-1);

$S_2$  = the greater of  $S_0$  or the Agoria index for June of year n;

$S_0$  = as the case may be, for an Order issued during the first half of the year, the Agoria Index for the month of December preceding this issue date, and for an Order issued during the second half of the year, the Agoria Index for the month of June preceding this issue date.

The Agoria index used for the above calculations is that of the salary cost for contracts as of 11/07/1981, "with charge reduction -37.916 BEF, national average", published monthly by Agoria. In the event Agoria stops publishing this index or substantially changes its content, format or calculation method, the Parties will agree on a substitute comparable index.

- d. Premium rates, specified in the Order, will apply for Services agreed to be delivered outside the Business Days or beyond the usual business hours, as defined in item (b) of Article 1 .
- e. Skillteam will invoice the Customer on a monthly basis. The Customer agrees to pay the charges immediately upon receipt of the invoice.
- f. If any payments are not received by Skillteam within thirty (30) days from the invoice date, and unless otherwise specified on the invoice, the Customer will pay a late payment fee equal to the lesser of:
1. one (1) percent of the amount of such late payment (including VAT) per every thirty (30) days or portion thereof; or
  2. the maximum amount permissible by applicable law.

Skillteam's rights relating to late payment fees shall be in addition to any other right that Skillteam may have in the event that the Customer fails to make any payment due to Skillteam under the Agreement.

## Article 6 Charges

- a. The Order specifies the charges and conditions applicable to the Services and other deliverables provided by Skillteam, such as, but not limited to:
1. as the case may be, the hourly and daily rates, and the fixed price for the Services;
  2. the one-time or recurrent charges for the use of Programs;
  3. the prices for the Machines; and
  4. the travel and lodging costs.
- b. If any authority imposes a tax, duty, levy, or fee, excluding those based on Skillteam's net income, upon any Order, then the Customer agrees to pay that amount as specified in the invoice or supply exemption documentation.
- c. Subject to applicable laws, the charges as defined in the Order will be adjusted on January 1 and July 1 of each year in function of the evolution of the Agoria index referred to hereinafter. However, no adjustment will be done within the first six (6) months after the acceptance date of the Order by Skillteam. Hours or days actually performed will be charged at the rates and conditions applicable at the date of performance.

The adjustments will be calculated according to the following formula:

$$P_{n1} = P_0 \times [ 0,2 + (0,8 \times (S_1 / S_0)) ]$$

$$P_{n2} = P_0 \times [ 0,2 + (0,8 \times (S_2 / S_0)) ]$$

where

$P_{n1}$  = the adjusted price applicable for Services delivered as from January 1 of year n;

$P_{n2}$  = the adjusted price applicable for Services delivered as from July 1 of year n;

$P_0$  = the price indicated in the Order;

## Article 7 Renewable Services

- a. Unless otherwise specified in the Order or terminated under the provisions of Article 8.3 "Termination of Renewable Services", renewable Services renew automatically at their expiration date for a one (1) year contract period.
- b. The terms relating to renewable Services may be changed by Skillteam at the end of each contract period with a three (3) months' prior written notice.



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## Article 8 Agreement Termination

All termination notices under this Article will be served in writing by registered mail.

### 8.1 Termination for Convenience

The Customer may terminate the Agreement for its convenience upon thirty (30) days prior notice. The notice will state the effective date of termination. In the event of such termination:

- a. The Customer will keep all items delivered by Skillteam under the Order prior to the date of termination or scheduled for delivery prior to such date, and will pay any amounts due for such items;
- b. When Services are delivered for a fixed price, the Customer will pay the pro-rated portion of the amount to be invoiced for the current contractual period. The pro-rata factor is the ratio between (i) the number of days from the commencement of the current period up to the date of termination and (ii) the total number of days in that period;
- c. The Customer will pay the termination charges, as specified in the Order; and
- d. The Customer will indemnify Skillteam against payments made or which Skillteam remains liable to make under, or in respect of the termination by Skillteam of, agreements with sub-contractors or suppliers of products placed pursuant to the Agreement.

### 8.2 Termination for Cause

- a. Either Party may terminate the Agreement if the other does not comply with its terms, by serving a notice requiring the breach to be remedied within thirty (30) days. If the breach is not remedied within such period, the Party serving the notice will be entitled to serve a further notice terminating the Agreement with immediate effect.
- b. Breach that is remedied within the agreed period may nevertheless result in changes that will be handled in accordance with Article 4 "Changes to an Order".
- c. Either Party may terminate the Agreement ipso jure with immediate effect by written notice if the other Party has filed for bankruptcy, enters into liquidation (whether voluntary or compulsory), makes any special arrangement or composition with its creditors, suspends or ceases payments on its debts, or if that other Party's insolvency would be widely recognized.
- d. In the event of termination under this Article 8.2 by the Customer, and unless otherwise agreed in writing by the Parties, the Customer shall pay Skillteam for all items (Services, Materials and Products) delivered and accepted at that time and the Parties shall enter into good faith negotiations to determine a price for the remaining items.

- e. In the event of termination under this clause by Skillteam for Customer breach, the provisions of Article 8.1 "Termination for Convenience" will apply.

### 8.3 Termination of Renewable Services

- a. The Customer may terminate renewable Services at any time during the term of the Agreement upon thirty (30) days prior notice. In the event of such termination, the provisions of Article 8.1 "Termination for Convenience" will apply.
- b. Skillteam may terminate renewable Services at any time during the term of the Agreement on three (3) months prior notice. In the case of Services prepaid by the Customer, Skillteam will give a pro-rated refund to the Customer for the not provided Services.

## Article 9 Confidential Information

- a. The Parties agree not to disclose the content of the Agreement to third parties, unless needed for its execution or required by law.
- b. All information exchanged is non confidential. If either Party requires the exchange of confidential information, it will be made under a signed confidentiality agreement.

## Article 10 Rights in Materials

Pursuant to an Order, Skillteam may, during the Services, deliver Materials to the Customer. Such Materials will be subject to the following provisions:

- a. **Customer Materials**
  1. The Customer will have all rights, title and ownership of copyright in all Materials identified in the Order as "Customer Materials".
  2. The Customer grants to Skillteam and its Related Companies:
    - (a) an irrevocable, nonexclusive, world-wide, paid-up licence to use, execute, reproduce, display, perform, distribute (internally and externally) copies of, and prepare Derivative Works based on the Materials; and
    - (b) the right to authorize others to do any of the former.
- b. **Other Materials**
  1. Skillteam or a third party will retain all rights, title and ownership of copyright in all Materials that are not identified as "Customer Materials" in the Order.



2. Skillteam will deliver one copy of the specified Materials to the Customer. Skillteam grants the Customer an irrevocable, nonexclusive, worldwide, paid-up licence to use, execute, reproduce, display, perform, prepare Derivative Works, and distribute, for its own use only, copies of such Materials. However, the Customer will not be authorised to make available to third parties, in whole or in part, any Materials, Derivative Works, or copies thereof without Skillteam's prior written consent.
- c. Any idea, concept, know-how, or technique that is developed or provided by either Party, or jointly by both Parties, in the performance of a Service may be freely used by either Party, subject to applicable patents and copyrights.
- d. **Required Consents**
  1. The Parties agree that in performing the Services, Skillteam may be required to amend or modify programs that have been provided by the Customer or to develop Derivative Works based on them.
  2. The Customer shall be responsible, at its own expense, for promptly obtaining and providing to Skillteam all "Required Consents" necessary for performing the Services. **Required Consents** means any consents or approvals required to give Skillteam, its Related Companies and its subcontractors the right or license to use, execute or modify (including creating Derivative Works) the Customer's or a third party's software, hardware and other products provided by the Customer without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products.
  3. The Customer agrees to indemnify, defend and hold Skillteam, its Related Companies and its subcontractors harmless from and against any and all claims, losses, liabilities and damages (including reasonable attorneys' fees and costs) arising from or in connection with any claim (including patent and copyright infringement) made against Skillteam and alleged to have occurred as a result of the Customer's failure to provide any Required Consents.
  4. Skillteam shall be relieved of the performance of any obligations that may be affected by the Customer's failure to promptly provide any Required Consents.

## Article 11 Patents and Copyrights

For purposes of this Article, the term "Product" includes Materials alone or in combination with Skillteam Products.

- a. If a third party claims that a Product provided under the Agreement by Skillteam to the Customer infringes that party's patent or copyright valid in Belgium or the Grand Duchy of Luxembourg, Skillteam will defend the Customer against that claim at Skillteam's expense and pay all costs, damages, and reasonable attorney's fees that a court finally awards, provided that the Customer:
  1. promptly notifies Skillteam by registered mail of any such claim;
  2. allows Skillteam to control the defence and any related settlement negotiations; and
  3. fully cooperates with Skillteam in the aforementioned defence and negotiations.
- b. If such a Product becomes, or in Skillteam's opinion is likely to become, the subject of such a claim of infringement, the Customer agrees that Skillteam may either secure for the Customer a right of continued use or modify it so that it becomes non-infringing. If Skillteam determines that none of these alternatives is reasonably available, the Customer agrees to return the Product to Skillteam on simple written request. Skillteam will grant the Customer a credit equal to the amount defined in the Order and paid for the delivery of such Product.
- c. Skillteam will have no liability if the claim is based on the modification of any Product by the Customer or on its use in other than its specified operating environment.
- d. This Article defines Skillteam's entire obligation regarding any claim of infringement.

## Article 12 Warranties

### 12.1 Services

- a. Skillteam warrants that it will perform the Services using reasonable care and skill and according to their current description contained in the Order or in the latest Change Authorisation.
- b. Unless otherwise set forth in the Order, there are no other warranties, expressed or implied, including those of fitness for a particular purpose.

### 12.2 Skillteam Products

The warranties for Skillteam Products delivered under an Order are defined in the agreements applicable to such Products and referenced in the Order.



### 12.3 Non-Skillteam Products

Non-Skillteam Products are subject to the specific terms and conditions of their respective vendor, manufacturer or distributor, in particular with regard to their use, warranty, services under warranty and post-warranty, patents and copyrights, as well as to the type and extent of the remedies available to the Customer. Upon the Customer's request, Skillteam will provide such applicable terms and conditions for such Products.

### 12.4 Exclusion from Warranties

- a. Skillteam does not warrant uninterrupted or error-free operation of a Product or Materials or that it will correct all defects.
- b. Skillteam will identify Products and Materials that Skillteam does not warrant.

## Article 13 Limitation of Liability

The responsibility of Skillteam under the Agreement is that of a supplier of data processing services and advice. On this basis, the Customer's exclusive remedies are as follows:

- a. Within the limits specified in this Article 13 and regardless of the basis on which the Customer is entitled to claim damages from Skillteam (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), Skillteam's entire liability for actual, direct and duly proven damages shall be limited, except if caused by Skillteam's wilful misconduct, to the amount charged (if recurring, twelve (12) latest months charges apply) for the specific Services, Products or Materials that are the subject matter of the claim.
- b. This limit also applies to any of Skillteam's Related Companies and subcontractors. It is the maximum for which Skillteam, its Related Companies and subcontractors are collectively liable.
- c. The foregoing limitation will not apply to claims for personal injury (including death) or damage to tangible personal property caused solely by Skillteam's, Related Companies' or subcontractors' proven negligence, nor to payments due pursuant to Article 11 "Patents and Copyrights".
- d. In no event will Skillteam be liable for the following, even if Skillteam has been advised of the possibility of such damages, loss or claims:
  1. damages caused by the Customer's failure to perform its responsibilities;
  2. loss of, or damages to, Customer's records or data;
  3. any indirect or economic consequential damages (including, but not limited to, lost revenue, lost profits or anticipated savings); and
  4. third-party claims against the Customer, other than those referred to in Article 11 "Patents and Copyright".

## Article 14 General

### 14.1 Assignment

The Customer agrees not to assign, or otherwise transfer, the Agreement or its rights under the Agreement, or delegate its obligations without Skillteam's prior written consent.

### 14.2 Conflicting Terms

In case of conflict between the terms of the present General Conditions and those contained in an Order, the latter will prevail.

### 14.3 Data Protection

The Customer authorizes Skillteam to store and use the data relating to it, including, but not limited to, the Customer's name, the Customer's contact information, business phone numbers, and business e-mail addresses. Such information will be processed and used in connection with the business relationship between the Parties, and may be provided to contractors acting on Skillteam's behalf, Skillteam's Business Partners, assignees of Skillteam, or to Skillteam's Related Companies for uses consistent with their business relationship, including communications with the Customer (for example, for processing orders, for promotions and for market research).

### 14.4 Entire Agreement

The present General Conditions and each attached Order contain the entire understanding between the Parties with respect to the subject matter therein and shall supersede all proposals or prior agreements, oral or written, between the Parties pertaining to such matters.

### 14.5 Force Majeure

Neither Party will be responsible for failure to fulfil any obligations due to causes beyond its control.

### 14.6 Free and Safe Access

- a. The Customer agrees to provide to Skillteam's personnel sufficient, free and safe access to the Customer's facilities as required for Skillteam to fulfil its obligations.
- b. Skillteam will comply with the Customer's reasonable rules and safety and health regulations communicated in writing to Skillteam regarding personal and professional conduct while at the Customer's facilities.

### 14.7 Freedom of Action

- a. Each Party may enter into similar agreements with others.
- b. Skillteam's personnel may provide similar Services, including developing Materials, to other customers, without any limitations or restrictions, provided such

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Materials and Services do not infringe upon the Customer's patent rights or copyrights under applicable law.

#### 14.8 Governing Law and Jurisdiction

- a. The laws of Belgium govern the Agreement and the Parties agree to submit all disputes relating to the Agreement to the exclusive jurisdiction of the Courts of Brussels. However, if the Customer's registered office is in the Grand Duchy of Luxembourg and the Products or Services are delivered there, the Courts of Luxembourg shall be solely competent.
- b. The United Nations Convention on Contracts for the International Sale of Goods does not apply.
- c. Nothing in the Agreement affects any statutory rights of consumers that cannot be waived or limited by contract under applicable law.

#### 14.9 Headings

The section headings appearing in the Agreement and each Order are for convenience of reference only and shall not control or affect in any way the scope, intent, or interpretation of any provision of the Agreement or any Order.

#### 14.10 Limitations Period

Neither Party may bring a legal action more than two (2) years after the cause of action arose, unless otherwise provided by applicable law without the possibility of contractual waiver or limitation.

#### 14.11 Remarketing

The Customer may not resell all or any portion of the Services without Skillteam's prior written consent.

#### 14.12 Severability

If any provision of the Agreement is held to be invalid, illegal or unenforceable, the remaining provisions of the Agreement will not in any way be affected or impaired.

#### 14.13 Survival

Any terms of the Agreement, which by their nature extend beyond the expiration or termination of the Agreement, shall remain in effect until fulfilled and apply to the successors and assignees of the Parties.

#### 14.14 Trademarks

Neither Party grants the other the right to use, in any promotion or publication, its (or any of its Related Companies') trademarks, trade names or other designations without prior written consent.

#### 14.15 Transfer of Risk

The Customer will bear the risk of loss or damage from the day following the date of installation of the Product or Materials. Prior to that date, the Customer is liable only if loss or damage is caused by its fault.

#### 14.16 Waiver

The waiver or failure of either Party to exercise in any respect any right provided for in the Agreement shall not be deemed a waiver of any further or future right under it.

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