

TERMS AND CONDITIONS

These terms and conditions (“**Terms and Conditions**”) are binding on all Customers of BoxedWireless's Services. These Terms and Conditions and the confirmation email sent during the order process, constitute a Contract between BoxedWireless each Customer.

1. DEFINITIONS

1.1 In these Terms and Conditions the following terms shall have the following meanings, unless the context otherwise requires.

"**BoxedWireless**" means BoxedWireless. and/or any undertaking which is from time to time: (a) a subsidiary undertaking of BoxedWireless (b) a parent undertaking of BoxedWireless (c) a subsidiary undertaking of any such parent undertaking, and "subsidiary undertaking" and "parent undertaking" shall have the meanings attributed to them by the Companies Act 1985.

"**Charges**" means all charges payable by the Customer.

"**Confirmation Email**" means the email that is sent to the Customer after the order has been received, containing all details of the order, which is accepted by the Customer upon starting to use BoxedWireless Services.

"**Contract**" means these Terms and Conditions and the accepted Confirmation Email.

"**Contract Start Date**" means the the date the order was placed by the Customer on the BoxedWireless website according to GMT.

"**Customer**" means you the Customer details as set out in the Confirmation Email or subsequently updated on our website.

"**Force Majeure**" means a superior force. An event that no human foresight could anticipate or which if anticipated, is too strong to be considered. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care.

"**Indirect Loss**" includes, without limitation, loss of profit, revenue, business, goodwill or anticipated savings, or any indirect, special or consequential damages;

"**Insolvency Event**" means if a party becomes insolvent, is declared bankrupt or threatens to be declared bankrupt, has a receiver appointed over the whole or any part of its assets, enters into any compound with creditors, or has an order made or resolution passed for it to be wound up (otherwise than in furtherance of a scheme for amalgamation, restructuring or reorganisation) or an event analogous to the above occurs in respect of a party in any jurisdiction to which that party is subject.

"Intellectual Property Rights" means any and all rights of intellectual and/or industrial property including but not limited to patents, trade names, trademarks, copyrights, design rights, database rights, know how and rights in confidential information, any rights to software and/or licences with respect to such rights.

"Pricelist" means the list of prices linked to the features/services provided and published by BoxedWireless. The Pricelist can be updated frequently;

"Recurring Charges" means the recurring charges set out in the Confirmation Email.

"RPI" means the Retail Prices Index (All Items) published by the Central Statistical Office (or the equivalent index published by any successor organisation).

"Software" means the software that is used by BoxedWireless to enable its services.

"Term" means the term of the whole Contract or any continuing part of it and which starts on the Contract Start Date. The term is one year.

"Working Days" means all calendar days, excluding Saturdays, Sundays and National bank holidays in the US and in The Netherlands.

1.2 In this Contract, any reference to a "person" shall be construed as a reference to any natural person, partnership, joint venture, corporation, Limited Liability Company or partnership, trust, firm, association or governmental agency or department or any two or more of the foregoing. Any reference to a party's "personnel" shall be deemed to include that party's directors, officers, employees, and agents.

1.3 The clause headings in this Contract are for ease of reference only and shall not affect its interpretation.

1.4 Any reference of this Contract to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to such statute or statutory provision (including all instruments, orders or regulations made there under or deriving validity there from) as in force at the Live Date and as subsequently re-enacted or consolidated.

2. GENERAL PROVISIONS

2.1 BoxedWireless shall sell the Services to the Customer subject to these Terms and Conditions, which shall govern any and all Contract(s), to the exclusion of any other terms and conditions.

BoxedWireless Terms and Conditions

- 2.2** The Terms and Conditions shall furthermore apply to all other (legal) acts on BoxedWireless's part, whether or not in performance of Contracts.
- 2.3** Variations to any Contract shall only be effective if they have been expressly agreed in writing by properly authorised representatives of BoxedWireless and the Customer and shall only apply to the Contract(s) identified in any of such variation.
- 2.4** BoxedWireless's personnel are not authorised to make any representation concerning the Services unless confirmed in writing by a properly authorised representative of BoxedWireless.
- 2.5** The Contract sets forth the entire agreement between the parties and supersedes any and all prior written and verbal arrangements, declarations and/or statements of the parties. All other terms, conditions and warranties whether express or implied, statutory or otherwise and representations whether made orally or in writing are hereby excluded to the fullest extent possible by law, save to the extent that they appear in the Contract or are specifically agreed in writing by the authorised representatives of the parties.
- 2.6** Nothing in this Contract shall exclude any liability for fraudulent misrepresentation.

3. CUSTOMER ORDER

- 3.1** No offer of BoxedWireless, as described in the Confirmation Email, shall be binding with regards to, contents, execution, delivery times, availability etc. and each Confirmation Email, indicating an offer of BoxedWireless, shall be revocable with immediate effect, unless expressly stated otherwise by BoxedWireless in writing. The offer of BoxedWireless, as described in the Confirmation Email, shall only be binding for a maximum period of two days after the day BoxedWireless has sent the Confirmation Email to the customer.
- 3.2** The contents of price lists, brochures and other data published, are stated as accurately as possible. The relevant data shall only be binding upon BoxedWireless if BoxedWireless has sent the Confirmation Email, and the Customer has accepted the Confirmation Email by starting to use the BoxedWireless Service.
- 3.3** All offers are made under the assumption that BoxedWireless is able to perform the Contract under normal circumstances and during normal working days and working hours and that the customer meets its obligations under the Contract.

4. FORMATION OF CONTRACT

- 4.1** A Contract shall enter into force at the "Contract Start Date".

4.2 The Customer has the right to cancel the contract and be credited for all charges incurred within 30 calendar days as of the “Contract Start Date” indicated in the confirmation email.

4.3 Unless the customer cancels the contract within the 30-day calendar period, the Customer is deemed to accept the operation and the functionality of the service.

4.4 The Customer cannot and will not resell these services (or any part of it) to any third party. However, the service and the costs can be shared with other parties (for example within the same building), but the party that signed the COA takes the full responsibility for the service and the use of it.

5. CHARGES

5.1 Unless specified otherwise in the Confirmation Email, all Charges are exclusive of any sales or value added tax (VAT), import taxes and all other levies or charges due in connection with the performance of the Contract including but not limited to foreign exchange rates (where applicable). Any specific bank and other charges involved in the transfer of payment to BoxedWireless shall be the Customer’s responsibility.

5.2 The Customer shall pay to BoxedWireless the Charges as are set out in the Confirmation Email.

5.3 In the event that the Customer fails to make any payment of the Charges on the respective due dates, BoxedWireless reserves the right to:

5.3.1 Give the Customer no less than 7 days notice of BoxedWireless’s intention to cancel or suspend any further performance of the Services and/or the Customer’s right to use its Domain Name(s) through BoxedWireless's Services;

5.3.2 Charge the Customer interest on the amount outstanding at the rate of 15% per annum (calculated at a daily rate) from the date the payment became due until actual payment is made (irrespective of whether the date of payment is before or after any judgement or award in respect of the same), without prejudice to BoxedWireless’s right to full damages on the basis of the law; and/or

5.3.3 Terminate the Contract without any notice of default being required.

5.4 All the costs of collection of the amount(s) due from the Customer, all the judicial and the extra-judicial costs including any fees charged by external experts in addition to the costs assessed in court relating to the collection of this claim or other enforcement of rights, shall be payable by the Customer in addition to the outstanding Charges and accrued interest.

5.5 The Customer shall not be entitled to set off against the Charges, including any applicable VAT applicable, any sum owed by BoxedWireless to the Customer whether under the Contract or otherwise.

5.6 The Customer shall not under any circumstances have the right to cancel, reduce, postpone or suspend the payment of the Charges (or any part of them).

6. DELIVERY

6.1 Any time or schedule for delivery stated by BoxedWireless is an estimate provided to the best of its knowledge.

6.2 BoxedWireless shall not be in default if the time is not met. If there is any delay, the time for delivery shall be extended accordingly. BoxedWireless shall communicate this to the Customer immediately after having learned of the delay.

6.3 BoxedWireless shall not be liable for any damage whatsoever suffered by the customer or a third party as a result of a late or incomplete delivery. The customer shall not terminate the Contract on any ground solely on the basis of the late or incomplete delivery.

7. SYSTEM AND NETWORK SECURITY

The Customer must not use the Service in a way that breaches any legislation, or any license applicable to you or that is in any way unlawful or fraudulent. The Customer will fully indemnify BoxedWireless against any actual or potential claims or legal proceedings against BoxedWireless by a third party because of the use of the Services in breach of the provisions of this clause. BoxedWireless shall notify the customer of any such claims or proceedings and inform the Customer regularly as to the progress of such claims or proceedings.

8. EXCESSIVE USAGE

8.1 BoxedWireless operates a Fair Use Policy. This implies that the usage of the Service is unrestricted unless this usage is excessive and disproportional. BoxedWireless reserves the right to restrict access for a Customer or terminate the service that doesn't comply with the Fair Use Policy. The Customer will be informed before such restrictions will take place.

9. SERVICE LEVEL GUARANTEE

9.1 BoxedWireless will perform the Services with reasonable skill and care. In addition, BoxedWireless shall use its best endeavours to comply with the service level guarantee. Notwithstanding the foregoing, in calculating whether or not BoxedWireless has met the service level guarantee is to be disregarded to the extent that it is attributable to:

- 9.1.1** The occurrence of an event of Force Majeure; or
- 9.1.2** Any period during which the Customer cannot serve its Website, process data or send or receive e-mails utilising the Services caused by work by BoxedWireless (or its personnel) for the purposes of planned or routine maintenance or support; or
- 9.1.3** After notification to the Customer, 2 working days in advance that the service will be down for a specified period of time.
- 9.2** All queries, concerns and fault reporting relating to the supply of Services may be directed to care@boxedwireless.net.
- 9.3** Any complaints in respect of breakdowns or defects regarding the Services, including also any differences in quality between the Services delivered and the specifications thereof as stated in the Contract(s) shall be notified forthwith by the Customer, failing which BoxedWireless shall be responsible for identifying on which date breakdowns or defects occurred.
- 9.4** Throughout the term of a Contract, BoxedWireless shall only be obliged, at its discretion, to rectify or remedy breakdowns or defects in the Services as soon as reasonably practicable, without the Customer being able to enforce any right to any compensation.
- 9.5** The lodging of a complaint does not discharge the Customer from its payment obligations towards BoxedWireless.
- 9.6** If BoxedWireless does not comply with the conditions set out in the BoxedWireless Service Description, and a penalty is defined for it, then the customer can claim from BoxedWireless this penalty. If BoxedWireless accepts the claim of the Customer, then the Customer will receive a credit note from BoxedWireless.
- 10. LIABILITY**
- 10.1** The customer shall never hold liable personally BoxedWireless's executives and employees for any damage resulting from the (performance of) any Contract.
- 10.2** The customer shall indemnify and hold harmless BoxedWireless and third parties engaged by BoxedWireless, in the event of a third party claim resulting from (the performance of) any Contract for which BoxedWireless is not liable under the Contract concerned and the Terms and Conditions.
- 10.3** Notwithstanding any provision in the contract, BoxedWireless shall never be liable for:

- a. BoxedWireless's non-fulfilment or breach of its obligations under the contract due to Force Majeure;
- b. Any act or omission on the part of BoxedWireless's employees, third parties engaged by BoxedWireless, or persons recommended by BoxedWireless, including any instructions given by those persons or companies as to the application or use of the Service;
- c. Loss or damage resulting from non-compliance with BoxedWireless's instructions for the use by the Customer or by third parties engaged by the Customer;
- d. Consequential loss or damage, indirect loss or damage, including but not limited to loss of profits and loss or damage to third parties;
- e. Loss or damage directly or indirectly resulting from the non-compliance of the Customer with its obligations under the Contract, and;
- f. Loss or damage directly or indirectly caused by third parties engaged by the Customer.

10.4 In so far as BoxedWireless may be liable to pay damages to the Customer or third parties on the principles of reasonableness and fairness and/or despite the provision of the Contract concerned, the customer acknowledge that the aggregate liability on the part of BoxedWireless, contractual or otherwise, shall not in any circumstance exceed the equivalent of €1,000.00.

10.5 The Customer acknowledges that it carefully considered the limitations and exclusions of BoxedWireless's liability set out in the Contract and considers the same to be commercially reasonable.

11. TERM AND TERMINATION

11.1 This agreement commences on the "Contract Start Date" and shall continue for the Term. After the Term the contract will end when either party serves on the other not less than calendar 30 days written notice of its intention to terminate the Contract.

11.2 Notwithstanding any other provision in the Contract, a Contract may be terminated forthwith by either party by notice in writing from the party not at fault if any of the following events shall occur:

11.2.1 If the other party shall at any time be in material breach of the Contract and shall fail to remedy such breach (if capable of remedy) within 15 days from receipt of notice in writing from the first party specifying such default and requiring it to be remedied;

11.2.2 If the other party shall at any time be in material breach of the Contract, where such breach is incapable of remedy; or

11.2.3 If the other party shall suffer an Insolvency Event.

11.3 BoxedWireless may forthwith terminate any Contract on notice in writing to the Customer if:

11.3.1 The Customer adopts a resolution and/or proceeds to discontinue or transfer its business or a major part thereof, including the transfer of its business into a company which is to be incorporated or already exists in payment for shares, or proceeds to change the objects of its business; or

11.3.2 There is any change in the ownership or control of the ultimate holding company or parent company of the Customer or of the Customer itself (and, for this purpose, the Customer shall give written notice to BoxedWireless of any such change in ownership or control immediately following its occurrence). "Control" shall have the meaning set out in section 840 of the Income and Corporation Taxes Act 1998.

11.4 Termination of the Contract will be without prejudice to any accrued rights of either party and will not affect obligations, which are expressed not to be affected by expiry or termination hereof. All claims, which BoxedWireless may have or acquire against the Customer in these cases, shall fall due immediately and in full.

12. INTELLECTUAL PROPERTY RIGHTS

12.1 Where BoxedWireless is providing software to the Customer to enable the use of the Service, BoxedWireless grants a non-exclusive license to use the Software solely for the term and the purposes of this Agreement.

13. FORCE MAJEURE

13.1 Notwithstanding any other provision of the Contract, if BoxedWireless shall permanently or temporarily be prevented or delayed whether directly or indirectly, in the performance of any of its obligations under the Contract by reason of any cause whatsoever beyond its reasonable control (including, without limitation, any prevention or delay caused by an act, delay or omission of the Customer, any industrial dispute, the unavailability of spare parts, delays or disruption caused by the acts or omissions of any telecommunications operators, the failure of third party networks, satellites or satellite linking systems or computer systems, the acts, delays or omissions of government and quasi-governmental bodies, (including, without limitation, local authorities, planning and licensing bodies) acts of God, riot, war, civil commotion, terrorist acts, explosions, malicious damage, fire, flood, storm or extreme weather conditions) ("**Force Majeure**"), then BoxedWireless shall have no liability in respect

of the performance of such of its obligations under the Contract as are prevented by the Force Majeure during the continuance of the Force Majeure.

- 13.2** If BoxedWireless is prevented by the Force Majeure from the performance of its obligations under the Contract for a continuous period in excess of 5 Working Days, then BoxedWireless may terminate the Contract(s) immediately on notice to the Customer, in which case neither party shall have any liability to the other party (save that rights and liabilities which accrued prior to the commencement of the Force Majeure shall continue to subsist). Notwithstanding the foregoing, BoxedWireless shall inform the Customer as soon as reasonably possible of any event of Force Majeure.

14. CONFIDENTIALITY

- 14.1** All materials, drawings, software codes, specifications, designs and information supplied by BoxedWireless to the Customer shall remain BoxedWireless's property (or that of its licensors) and be kept strictly confidential at all times by the Customer and shall not be copied or used for any purposes other than the receipt or use of the Services under the Contract(s), nor disclosed to any third party without BoxedWireless's prior written consent.

- 14.2** All information concerning BoxedWireless's business, assets or management, which becomes part of the Customer's knowledge shall also be held in confidence by the Customer, and shall not be copied or used for any purposes other than the supply of the Services under the Contract(s), nor disclosed to any third party without BoxedWireless's prior written consent.

- 14.3** All details, documents and other business information made available to the Customer by BoxedWireless within the framework of the Contract(s) shall always remain BoxedWireless's property and shall be returned immediately upon BoxedWireless's first request.

- 14.4** The Customer shall also impose these obligations on its personnel.

15. NOTICES

- 15.1** Any notice, consent, statement, request or other communication (a "**Notice**") to be given under these Terms and Conditions shall be in writing and signed by or on behalf of the party giving it. Any Notice shall be sent or delivered to the party to be served at the address/fax set out in the Confirmation Email (for notices to BoxedWireless) and at the address/fax in the BoxedWireless database.

- 15.2** Service of a Notice must be affected by email to **care@boxedwireless.com**.

16. MODIFICATIONS

16.1 BoxedWireless reserves the right to increase the charges payable by the Customer, provided that BoxedWireless shall not increase any charges more than once in any calendar year, and provided also that any such increase shall not, in percentage terms, exceed the percentage increase in the RPI in the previous consecutive twelve calendar months. BoxedWireless also reserves the right to amend any of the Terms and Conditions and/or terms and conditions of the Contract(s) in so far as they relate to the Customer's use of the Services, in order to comply with then current best practice for Internet use.

16.2 BoxedWireless further reserves the right to alter, modify and/or delete any of the Services or the content thereof, provided that BoxedWireless serves notice on the Customer of such changes not less than 30 days prior to the date of commencement of such variations. If the Customer does not wish to accept such changes, it may terminate the Contract on notice to BoxedWireless, and such termination shall be deemed to come into effect on the date of commencement of such variation, as indicated in BoxedWireless's notice.

17. MISCELLANEOUS

17.1 BoxedWireless shall be entitled at any time to transfer all or part of its rights and obligations arising from these Terms and Conditions and/or the Contract(s) to one of the companies belonging to BoxedWireless, without the Customer's prior agreement.

17.2 The Customer shall not be entitled to assign, transfer or sub-license all or part of its rights and obligations arising from these Terms and Conditions and/or the Contract(s), whether for the purpose of a cession, merger, splitting or for another procedure of transmission of rights and obligations, without BoxedWireless's prior agreement in writing. For the avoidance of doubt, BoxedWireless may freely assign, transfer, sub-contract or sub-license all or part of its rights and obligations arising from these Terms and Conditions and/or the Contracts to any third party (including, without limitation, any other member of BoxedWireless).

17.3 No waiver by BoxedWireless of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

17.4 Nothing in these Terms and Conditions shall be construed to create a partnership or joint venture between the parties or to create any agency relationship between the parties.

17.5 No single or partial exercise of any power or right by BoxedWireless shall preclude any other or further exercise thereof or the exercise of any other power or right under these Terms and Conditions.

17.6 If there is any ambiguity or inconsistency between these Terms and Conditions and any other document forming part of the Contract, then these Terms and Conditions shall prevail.

17.7 For the avoidance of doubt, this Contract may only be relied on by the parties to it (namely BoxedWireless and the Customer) and this Contract shall not be directly or indirectly enforceable by any third party nor is it intended to benefit any third party.

17.8 The permitted successors to or assignees of the rights of either or both of the parties are deemed to be a party to this Contract.

17.9 All BoxedWireless Customers will be subject to a credit check.

18. GOVERNING LAW AND JURISDICTION

18.1 The laws of The Netherlands shall exclusively govern the Contract.

18.2 All disputes between the parties (including those which are regarded as such by only one of the parties) which may arise from the Contract(s) and/or these Terms and Conditions or any agreements resulting thereof shall be exclusively submitted to the Dutch Courts in Amsterdam.