

Brixxs Terms of Use

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If an executed agreement exists between the legal entity on whose behalf you're accessing the Services (as defined below) and Brixxs or a Brixxs authorized distributor/reseller, at any time regarding the Services, the terms of that agreement shall supersede these Terms of Use in its entirety, except that Section 5 and the Brixxs Privacy Policy shall continue to govern the use of data submitted by you during the registration process for the Services. Upon termination of that agreement you have the right to continue to use the Service under these Terms of Use.

By using the products and (online) services of Brixxs (collectively the "Service"), You signify and agree to be bound by these Terms of Use, unless an executed agreement already exists as stated above. Conditions of purchase or other conditions of You and/or third parties or additions to or deviations from these Terms of Use shall only apply when explicitly agreed in writing between the Parties. These Terms of Use apply to all Services of Brixxs and all Services included therein.

If You are entering into these Terms of Use on behalf of a company or other legal entity, You represent that You have the authority to bind such entity to these Terms of Use or any other terms and conditions, in which case the terms "You" or "Your" shall refer to such entity.

For reference, a Definitions section is included at the end of these Terms of Use.

1. License

Brixxs hereby grants You a non-exclusive, non-transferable right to use the Service, solely for Your own internal business purposes, subject to these Terms of Use. All rights not expressly granted to You are reserved by Brixxs and its licensors. You may not use the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes, or disclose the results of any such benchmark to any third party. You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit the Service in any way; (ii) modify or make derivative works based upon the Service; (iii) remove or modify any markings or



notices of proprietary rights in the Service; (iv) reverse engineer the Service; (v) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (vi) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (vii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (viii) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (ix) attempt to gain unauthorized access to the Service or its related systems or networks. You consent to use the Service in accordance with any technical- and usage limitations, including but not limited to the number of users, number of applications, disk storage, RAM, number and type of integrations, geography and traffic. During the term of the Agreement and for a period of three years following its termination, Brixxs may, after 30 days advance written notice, inspect and audit Your records to verify compliance with the Agreement, these Terms of Use and other terms and conditions. You agree to cooperate with the audit, provide us with reasonable assistance and access to information.

2. Your Responsibilities

You are responsible for all activity occurring under Your accounts. You shall abide by all applicable laws, treaties and regulations in connection with Your use of the Service, including, without limitation, those related to data privacy, international communications and the transmission of technical or personal data. You shall treat the account information, access and identification codes as confidential and with due care. You shall: (i) notify Brixxs immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Brixxs immediately and use reasonable efforts to stop immediately any copying or distribution of (parts of) Services that is known or suspected by You (iii) not impersonate another Brixxs User or provide false identity information to gain access to or use the Service.

3. Your Intellectual Property Rights

As between Brixxs and You, You own all rights, title and interest, including all related intellectual or industrial property rights, in and to any Customer Data & Customer Deliverables and Brixxs hereby assigns and transfers to You any rights, title or interest Brixxs may acquire in any Customer Deliverables upon receipt of payment in full from You. Subject to these Terms of Use, and during the term for which You have a right to use the Service, Brixxs hereby grants You a limited, non-exclusive, non-transferable and terminable license to use any Content



incorporated in the Customer Deliverables, solely in connection with Your authorized use of the Service.

4. Brixxs's Intellectual Property Rights

Brixxs alone, and its licensors where applicable, shall own all right, title and interest, including all related intellectual or industrial property rights, in and to all Services of Brixxs (including all its algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) and any Feedback. These Terms of Use are not a sale and do not convey to You any rights of ownership in or related to the Service or the intellectual property rights owned by Brixxs. The Brixxs name, the Brixxs logo, and the product names associated with the Service are trademarks of Brixxs or third parties, and no right or license is granted to use them. Brixxs may use Your logos and reference Your name and the nature of the Services provided hereunder in Brixxs marketing efforts, including on the Brixxs web site.

5. Privacy & Security

Brixxs's privacy and security policies may be viewed at <https://www.Brixxs.com/privacy-policy>. Brixxs reserves the right to modify its privacy and security policies in its discretion from time to time. By providing Brixxs Your email address You consent to our using the email address to send You Service-related notices, including any notices required by law, changes to features of the Service and special offers. Brixxs's implementation, development and operations teams shall have the right to access and use Your account information, and Customer Data for the purpose of delivery of the Service, respond to service or technical problems, on Your request, or to provide Professional Services. Brixxs shall be entitled to change the account, access- and identification codes assigned.

6. Free Edition; Trial Period

Brixxs may offer a portion or specific editions of the Service free of use. It is under sole discretion of Brixxs to specify the conditions for free use and Brixxs deems the right to modify these conditions of free use at any time. For non-free portions or Editions of the service, the Service may be made available to You for an initial free trial period of up to 7 days from Your acceptance of these Terms of Use. If You do not purchase a paid subscription for the Service from Brixxs prior to the conclusion of the free trial period, Your access to these non-free portions of the Service will be suspended and any Customer Data that is uploaded to

these non-free portions of the Service may be deleted. If You wish to continue using the Service, You must contact Brixxs and purchase a paid subscription for Your continued use of such Service.

7. Representations & Warranties

Brixxs shall implement commercially reasonable technical and organizational measures to secure availability, confidentiality and integrity with respect to the Services, the Customer Data and personal information. However, unless explicitly otherwise agreed in writing between Parties, the Services are provided on an “as is” and “as available” basis, without warranties of any kind and the Services are accessed or used by You at Your own risk and without any right to support, maintenance, updates or any other services. Brixxs and its licensors make no representation, warranty, or guarantee as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Service. Brixxs and its licensors do not represent or warrant that (a) the use of the Service will be secure, timely, uninterrupted or error-free of operate in combination with any other hardware, software, system or data (b) the Service will meet Your requirements or expectations, (c) any stored data will be accurate or reliable, (d) the quality of any products, services, information, or other material purchased or obtained by You through the Service will meet Your Requirements or expectations, (e) errors or defects will be corrected, or (f) the Service or the server(s) that make the Service available are free of viruses or other harmful components. All conditions, representations and warranties, whether express, implied statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights, are hereby disclaimed to the maximum extent permitted by applicable law by Brixxs and its licensors. The Service may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Brixxs is not responsible for any delays, delivery failures, or other damage resulting from such problems.

Brixxs shall not be responsible for any Customer Data. You, not Brixxs, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and Brixxs shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. Brixxs reserves the right to establish or modify its general practices and limits relating to storage of Customer Data. You represent and warrant that You have not falsely identified yourself nor provided any false information to gain access to the Service.

8. Limitation of Liability

IN NO EVENT SHALL BRIXXS'S LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATING TO THE SERVICE AND/OR THESE TERMS OF USE AND/OR ANY AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU TO BRIXXS TO USE THE SERVICE DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIM. IN NO EVENT SHALL BRIXXS AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OR COSTS OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE AND/OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF BRIXXS AND/OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COULD HAVE REASONABLY FORESEEN THEM. THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS.

9. Indemnification

You shall defend, indemnify and hold harmless Brixxs, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a (alleged) claim that You violate any third-party right, including without limitation any right of privacy, publicity rights or intellectual property rights; (ii) a claim arising from the breach by You or Your Users of the Agreement or these Terms of Use or any law, rule, regulation or treaty; (iv) third-party claims on account of product liability due to a deficiency in a Service delivered by You to a third party that consisted in part of hardware, software, websites, databases or other materials supplied by Brixxs.

10. Notice

Brixxs may give notice by means of a general notice on the Service, electronic mail to Your email address on record in Brixxs's account information. You may give notice to Brixxs (such notice shall be deemed given when received by Brixxs) at any time by sending an email to info@brixxs.com.

11. Assignment; Change in Control

Neither Agreements nor (the rights delivered from) these Terms of Use may be transferred or assigned by You without the prior written approval of Brixxs. The obligations arising from these Terms of Use and/or Agreements may be assigned by Brixxs without notice to You and without Your consent. Any transfer or assignment in violation of this section shall be null and void. Any actual or proposed change in control of You that results or would result in a direct competitor of Brixxs directly or indirectly owning or controlling 50% or more of You shall entitle Brixxs to terminate the Agreement or (any rights delivered from) these Terms of Use for cause immediately upon written notice.

12. Force Majeur

Brixxs shall not be bound to fulfill any obligation if prevented from doing so by force majeure. Insofar as not already included, force majeure shall further mean instances of strikes, company sit-ins, blockades, embargoes, government measures, war, revolution and/or any similar state, power failures, faults in electronic communication lines, cable breaks, fires, explosions, water damage, lightning damage, natural disasters, flooding and/or earthquake, shortage of and/or sickness of personnel and non-fulfillment by suppliers of Brixxs or force majeure on the part of suppliers of Brixxs.

13. Termination

You agree that Brixxs may terminate the providing of any gratuitous Services at any time, for any reason and without prior notice. You agree that Brixxs shall not be liable to You and/or any third party for any modification, suspension, or termination of the Service. The following Sections shall survive the termination and/or expiration of this Agreement: Sections 3 (Your Intellectual Property Rights); 4 (Brixxs 's Intellectual Property Rights); 7 (Representations & Warranties); 8 (Limitation of Liability); 9 (Indemnification); and 16 (Final Provisions).

14. Modification to Terms

Brixxs reserves the right to modify these Terms of Use and its policies relating to the Service at any time and without notice, effective upon posting of an updated version of these Terms of Use on the Service. You are responsible for regularly

reviewing these Terms of Use. Continued use of the Service after any such changes shall constitute Your consent to such changes.

15. Final Provisions

Dutch law shall govern Agreements and these Terms of Use. The application of the United Nations Convention on Contracts for the International Sale of Goods 1980 is excluded under all circumstances. Any disputes between Parties arising from or related to Agreements or or these Terms of Use shall be exclusively submitted to a court of law with jurisdiction in Rotterdam, The Netherlands. These Terms of Use, together with any other legal notices and Agreements shall constitute the entire Agreement between You and Brixxs concerning the delivery of Services. If (parts of) provisions in these Terms of Use, Agreements or annexes are or become unlawful, invalid or unenforceable, the surviving provisions or the valid part of the invalid provision shall remain fully in force and enforceable, without any consequences for the other obligations of Parties. The unlawful, invalid or unenforceable provision shall be deemed replaced by a provision that as far as possible has the same legal and commercial purport.

16. Definitions

“Agreement”, “Contract”: the arrangements agreed in a form or a document or in some other way, under which Brixxs will deliver the Services or any other products or services defined therein.

“Content”: the audio and visual information, documents, software, products, services, proprietary tools, source code samples, generic templates and reusable components, App Store content, libraries, know-how, techniques and expertise, (i) contained or made available to you in the course of using the Service, or (ii) used or developed by Brixxs in the course of developing or delivering Customer Deliverables.

“Customer Data”: any data, information or material, including posts, comments, documents, project information, models, applications, templates, code, widgets, themes, application data, user information and account information, provided, submitted, created, saved, added, uploaded or made available by You to the Service in the course of using or accessing the Service, except Services (or parts thereof) and Feedback.

“Customer Deliverables”: means deliverables that are provided by Brixxs as part of Professional Services that: (i) constitute Customer Data, or a modification, translation, abridgment or adaptation of Customer Data, or (ii) are expressly



identified as being owned by You in the applicable Order Form or SOW, The term "Customer Deliverable(s)" does not include Content.

"Feedback": any suggestions, ideas, enhancement (requests), recommendations or other feedback provided by You or any other party relating to the Services.

"Party", "Parties": You or Brixxs individually ("Party") or together ("Parties").

"Professional Services": fee based consulting, quality assurance or training services Brixxs may perform pursuant to a statement of work ("SOW") or Order Form issued pursuant to these Terms of Use. Each SOW or Order Form shall be deemed part of and subject to these Terms of Use.

"Service", "Services": means all products, services of Brixxs, including but not limited to (mobile) Apps, Content (as defined above), applications, other software, Support Portal, Customer Portal, Employee Portal (cloud) hosting services, platform as a service, documentation and manuals, except Customer Data.

"Terms of Use": these Terms of Use, together with the documents referred to in these Terms of Use.

"You", "User(s)": anyone who entered into an Agreement with Brixxs or uses or accesses a Service of Brixxs, including Your employees, representatives, consultants, contractors or agents who are authorized to use or access the Service of Brixxs or have been supplied user identifications and passwords by You (or by Brixxs at Your request), even if no charge is due or registration is needed.

17. Questions or Additional Information

If You have questions regarding these Terms of Use or wish to obtain additional information, please contact us via <https://www.brixxs.com/contact/>.