

General Terms and Conditions of G3N3S1S

These general terms and conditions apply to all offers, quotations, agreements and deliveries of services and products by G3N3S1S. They are provided on request free of charge and can be downloaded at any time from our website at 1spark.io.

Article 1: Definitions

In these general terms and conditions, the following terms have the following meanings:

G3N3S1S: the organisation, and user of these general terms and conditions, established at Le Mairekade 77, 1013 CB Amsterdam, The Netherlands and registered in the trade register of the Chamber of Commerce under number 42063978.

Client: the natural or legal person on whose instruction G3N3S1S supplies its services and/or products.

Services: all IT services that G3N3S1S performs for the benefit of the Client in performance of the Agreement.

Parties: the Client and G3N3S1S.

Agreement: one or more agreements concluded between the Client and G3N3S1S and/or amendments and additions thereto.

Software: the software or mobile application developed by G3N3S1S and/or made available to the Client in the context of the Agreement.

Showstopper: Critical showstopper: a problem that causes the application to close unexpectedly. Major showstopper: a problem that renders part of the app unusable.

Ideation: the discovery and concept phase in which G3N3S1S, together with the Client, defines and validates the product idea. Its deliverables focus on defining the MVP to achieve optimal product/market fit. Although the Ideation phase may produce a codebase, it remains conceptual in nature and does not include production-ready software.

MVP (Minimum Viable Product): a first working version of the Software containing the core features required to validate the product with real users. Deliverables include a functional application (web and/or mobile) covering the agreed core feature set, the necessary back-end and integrations, and deployment to a test or production environment. An MVP is explicitly a starting point and is not intended to be a complete, fully-featured or final product.

Article 2: General

- 2.1 These general terms and conditions apply to every Agreement/assignment concluded. The applicability of any terms and conditions of the Client is expressly rejected.
- 2.2 If there is any ambiguity regarding the interpretation of one or more provisions of these general terms and conditions, they must be interpreted in the light of current legislation and case law.
- 2.3 If a situation arises between the Client and G3N3S1S that is not governed by these general terms and conditions, that situation must be assessed in accordance with applicable legislation and case law.
- 2.4 If one or more of the provisions in these general terms and conditions are found to be void or are nullified, the remaining provisions of these general terms and conditions remain fully applicable. G3N3S1S and the Client will then consult in order to agree on new provisions to replace the void or nullified provisions, observing as far as possible the purpose and intent of the original provision.
- 2.5 If G3N3S1S does not always require strict compliance with these terms and conditions, this does not mean that their provisions do not apply, or that G3N3S1S would in any way lose the right to require strict compliance with these provisions in other cases.

Article 3: Quotations and Offers

- 3.1 All offers are without obligation, unless stated otherwise. G3N3S1S has the right to revoke a non-binding quotation within three days of its acceptance by the Client.

- 3.2 The Client warrants the accuracy and completeness of the requirements and specifications for the presentation and other data provided by or on behalf of the Client to G3N3S1S, on which G3N3S1S bases its offer.
- 3.3 If an Agreement is quoted on the basis of subsequent calculation, the quoted prices serve only as a guide price; the costs actually incurred by G3N3S1S will be charged.

Article 4: Formation of the Agreement

- 4.1 The Agreement is concluded at the moment the Client accepts the offer and satisfies the conditions attached thereto, or at the moment performance of the Agreement/assignment has commenced.
- 4.2 G3N3S1S will commence performance of the Agreement after it has received the signed confirmation of assignment from the Client.

Article 5: Performance of the Agreement

- 5.1 G3N3S1S determines the manner in which, and the persons by whom, the Agreement is performed. In doing so, G3N3S1S has the right, without notice to the Client, to engage third parties, to obtain goods from third parties, to procure services from third parties, and to have the Agreement performed in whole or in part by third parties, and to charge the associated costs, as specified in the quotation, to the Client. These general terms and conditions also apply for the benefit of the third parties engaged by G3N3S1S.
- 5.2 G3N3S1S does not guarantee that the website or software it develops will function without interruption or without errors.
- 5.3 The Client is aware that the Internet is not always a wholly reliable medium for the transmission of information, and that disruptions, delays and errors may occur at any time.

Article 6: Amendments to the Agreement

- 6.1 Adjustments to and deviations from these general terms and conditions and/or the Agreement are only valid where agreed in writing between the Parties.
- 6.2 Any additional costs arising from amendments or additions made are borne by the party that initiated the amendments.
- 6.3 If the Parties agree that the Agreement is to be amended or supplemented, this may affect the time of completion of its performance. G3N3S1S will inform the Client of this as soon as possible.
- 6.4 If the Parties are unable to reach agreement on any amendments or additions, the Parties remain bound by the original Agreement.

Article 7: Obligations of the Client

- 7.1 The Client ensures that all data which G3N3S1S indicates are necessary, or which the Client should reasonably understand to be necessary, for the (further) performance of the Agreement are made available in good time.
- 7.2 If the Client makes software, telecommunications facilities, websites, materials, databases or other data on an information carrier available to G3N3S1S, these must comply with the specifications prescribed by G3N3S1S as set out in the Agreement/quotation.
- 7.3 The Client is obliged to inform G3N3S1S without delay of facts and circumstances that may be relevant in connection with the performance of the Agreement.
- 7.4 The Client must refrain from conduct that makes it impossible for G3N3S1S to perform the Agreement properly.
- 7.5 The Client indemnifies and holds G3N3S1S harmless against claims of any third parties who suffer damage in connection with the performance of the Agreement and/or unlawful conduct that is attributable to the Client.
- 7.6 The Client is responsible for the proper functioning of its equipment and any other technical facilities required to access and use the software in the context of performing the Agreement.

- 7.7 The Client is not permitted to use the software in such a way that it may cause damage to the software and/or to G3N3S1S and/or to third parties.
- 7.8 Where any of the circumstances referred to in this Article 7 apply, G3N3S1S is permitted to dissolve the Agreement in whole or in part, without prejudice to the other rights of G3N3S1S.
- 7.9 The Client itself bears responsibility when displaying images, text, video or audio files to which the rights belong to third parties.

Article 8: Delivery

- 8.1 If G3N3S1S has indicated a period within which it will perform the work, this period cannot be regarded as a strict deadline. G3N3S1S will, however, keep the Client informed as well as possible of any delays.
- 8.2 In the event that a delivery period agreed between G3N3S1S and the Client is unreasonably exceeded as a result of an event beyond its control and not attributable to its acts and/or omissions, such as described in Article 19 of these general terms and conditions, this period is automatically extended by the period during which it was exceeded as a result of such an event.

Article 9: Rates and Rate Changes

- 9.1 All stated prices in euros and rates are exclusive of VAT, unless stated otherwise in the quotation.
- 9.2 G3N3S1S has the right to amend its (hourly) rates. Such changes are notified to the Client in writing or electronically no later than 2 months before they take effect. If the Client does not agree to the new (hourly) rates, the Client is entitled to dissolve the Agreement from the moment the new (hourly) rates apply. The dissolution must be made in writing and within 14 days after the Client has been notified of the rate change. Changes in taxes and levies are passed on in all cases and are not grounds for the Client to dissolve the Agreement.
- 9.3 In addition to Article 9.2, the (hourly) rates and any recurring fees are adjusted (indexed) automatically each year with effect from 1 January, in line with the change in the Consumer Price Index (CPI, all households — “CPI alle huishoudens”) as published by Statistics Netherlands (Centraal Bureau voor de Statistiek, CBS) over the most recently available preceding 12-month period. Where this index shows a decrease, the rates remain unchanged. This annual indexation takes effect automatically and without prior notice, is not a rate change within the meaning of Article 9.2, and does not give the Client a right to dissolve the Agreement. Rate changes do not affect quotations or fixed-price projects already accepted by the Client.
- 9.4 Unless explicitly stated otherwise in the quotation, recurring and third-party costs are not included in G3N3S1S's prices and are borne by the Client. These include, but are not limited to, hosting, server and cloud-infrastructure fees, domain names, SSL certificates, third-party software licences, API and SaaS subscriptions, and app-store fees. Where G3N3S1S arranges any of these on the Client's behalf, the associated costs are passed on to the Client.
- 9.5 The Client reimburses the travel costs that G3N3S1S incurs for work meetings in connection with the Agreement, at a rate of € 0.39 per kilometre (excluding VAT).

G3N3S1S declares these costs monthly on the invoice for the work performed in the relevant month, stating the date, destination and number of kilometres.

Article 10: Fixed Price

- 10.1 Where the Parties have agreed a fixed price for performance of the Agreement, G3N3S1S is entitled to require an advance of up to 50% of the total agreed amount, in particular for larger projects. Where an advance is required, this is stated in the quotation; G3N3S1S will commence performance of the Agreement once it has received the full advance payment, and the remaining agreed amount will be invoiced to the Client immediately prior to delivery. Where no advance is required, the full agreed amount is invoiced to the Client on or immediately prior to delivery, unless the quotation states otherwise.

- 10.2 G3N3S1S may increase a fixed agreed price where, during performance of the Agreement, it transpires that the originally agreed or anticipated volume of work has changed to such an extent — due to unforeseeable circumstances not attributable to G3N3S1S, or due to acts of the Client — that G3N3S1S cannot reasonably be expected to perform the agreed work at the originally agreed price.

Article 11: Inspection

- 11.1 After delivery, the Client has 28 calendar days to report to G3N3S1S any showstopper bugs and/or other remarks relating to the work produced under the Agreement. Following such a report, G3N3S1S will, where (technically) possible, remedy the showstopper bug free of charge or carry out the work on the basis of the Client's remarks, provided that such work falls within the scope of the Agreement.
- 11.2 If the work does not fall within the scope of the Agreement, or if the Client does not make a report to G3N3S1S within the period set out in Article 11.1, the work the Client wishes to have carried out is regarded as a new agreement (assignment) and charged to the Client separately.

Article 12: Cancellation

- 12.1 Except where otherwise agreed in writing, if the Client wishes to cancel, in whole or in part, an Agreement that has been concluded but on which work has not yet commenced, the Client is obliged to pay G3N3S1S 15% of the total agreed price, plus VAT, as cancellation costs. This is without prejudice to the right to claim the excess should the costs actually incurred be higher. The Client is furthermore obliged to compensate the costs arising from any commitments to third parties reasonably entered into by G3N3S1S in performance of the Agreement. At the Client's request, G3N3S1S will provide evidence of the costs incurred.
- 12.2 The above cost arrangement does not affect the Client's possible statutory liability for the damage arising from the cancellation. Such damage may include, but is not limited to, the costs of engaging third parties or the costs of hours already worked.
- 12.3 Cancellation of an Agreement on which work has already commenced is, except where otherwise agreed in writing, only possible upon payment of the full agreed price.

Article 13: Payment / Retention of Title

- 13.1 The Client must pay invoices received from G3N3S1S within 14 days of the invoice date, unless other arrangements have been made in writing.
- 13.2 If G3N3S1S does not receive payment of the invoiced amount within the payment term, G3N3S1S sends the Client a reminder. If the Client does not respond to the reminder sent, the Client is in default by operation of law without any further demand or notice of default being required. In that case the Client owes the statutory commercial interest from the date the amount due became payable until the time of payment. In addition, all costs of collection, once the Client is in default, both judicial and extrajudicial, are borne by the Client.
- 13.3 Disputes regarding the performance of the Agreement do not affect the Client's payment obligation.
- 13.4 Set-off and suspension of payment by the Client are excluded.
- 13.5 Where the Client is in default of payment, G3N3S1S has the right to cease or suspend performance of the Agreement without becoming liable in damages towards the Client.
- 13.6 In the event of liquidation, bankruptcy, attachment or suspension of payment of the Client, the claims of G3N3S1S against the Client are immediately due and payable.
- 13.7 All deliveries/services to the Client are made under retention of title. Title to the products arising from the Agreement passes to the Client once the Client has paid in full all claims (price, additional work, costs, interest, etc.) of G3N3S1S, subject to the provisions of Article 14 of these general terms and conditions.

Article 14: Intellectual Property Rights

14.1 Definitions

In this Article:

- “Background IP” means all intellectual property rights, know-how, methodologies, frameworks, tools, libraries, source code, templates, architectures, processes, utilities, development practices and other materials owned, developed or controlled by G3N3S1S prior to the Agreement, or developed independently from the Client Deliverables, including any generic, reusable or general-purpose components;
- “Client Deliverables” means the application, software, designs, documentation and other deliverables developed by G3N3S1S specifically for the Client under the Agreement;
- “Third-Party Materials” means software, libraries, frameworks, APIs, SDKs, fonts, assets, hosting services, SaaS services and other products or services owned or licensed by third parties, including open-source software, that are incorporated into or required for the operation of the Client Deliverables.

14.2 Ownership of Intellectual Property

G3N3S1S develops software and digital products using proven frameworks, technical solutions, reusable components and development methodologies in order to deliver projects efficiently, reliably and cost-effectively.

Accordingly, all intellectual property rights in and to the Background IP, as well as all technical solutions, software components, source code, frameworks, architectures, modules, libraries, development tools, methodologies and other reusable elements used or developed by G3N3S1S in connection with the Agreement, shall remain vested exclusively in G3N3S1S or its licensors.

No transfer or assignment of such intellectual property rights to the Client shall take place under this Agreement.

14.3 Licence to Client

Subject to full payment of all amounts due under the Agreement, G3N3S1S grants the Client a perpetual, worldwide, irrevocable, royalty-free licence to use, operate, maintain, modify and further develop the Client Deliverables for its own business purposes.

The licence granted under this Article includes the right for the Client to engage third parties to maintain, modify or further develop the Client Deliverables.

14.4 Delivery of Source Code and Project Files

Upon final delivery of the Client Deliverables and full payment of all amounts due under the Agreement, G3N3S1S shall provide the Client with:

- the complete source code of the Client Deliverables;
- available technical documentation reasonably required to maintain and further develop the Client Deliverables; and
- the design files and project assets created specifically for the Client as part of the agreed scope of work.

Following such delivery, the Client shall be free to continue development of the Client Deliverables independently or through third parties.

14.5 Client-Specific Concepts and Designs

Although G3N3S1S retains ownership of the underlying technology and reusable components, G3N3S1S acknowledges that the Client Deliverables may contain concepts, designs, user experiences, branding elements, business logic, workflows or other features that are unique to the Client's product.

G3N3S1S shall not knowingly reproduce, commercialise or reuse such unique and distinctive product-specific elements for the benefit of another client without the Client's prior written consent.

Nothing in this Article shall prevent G3N3S1S from reusing general technical knowledge, methodologies, development practices or reusable software components that do not embody the Client's unique product identity.

14.6 Reuse Rights of G3N3S1S

Nothing in this Agreement restricts G3N3S1S from:

- using and reusing its Background IP;
- using and reusing generic or reusable software components, frameworks, modules and technical solutions;
- applying the general skills, know-how, methods, techniques and experience acquired during the performance of the Agreement; or
- performing services for other clients, including clients operating in the same industry or market as the Client, provided that G3N3S1S does not disclose the Client's Confidential Information or reproduce the Client's unique product concepts in violation of Article 14.5.

14.7 Client Materials

By providing content, materials, software, designs, specifications, data or other information to G3N3S1S, the Client represents and warrants that it has all necessary rights, licences and permissions required for G3N3S1S to use such materials in connection with the performance of the Agreement.

The Client shall indemnify and hold harmless G3N3S1S against any third-party claim arising from an alleged infringement of intellectual property rights resulting from materials supplied by or on behalf of the Client.

14.8 Proprietary Notices

The Client shall not remove or alter any copyright notices, trademark notices or other proprietary notices relating to the Background IP retained by G3N3S1S, except where such removal is reasonably necessary for the Client's use of the Client Deliverables and does not affect G3N3S1S's ownership rights.

14.9 Third-Party Materials

The Client Deliverables may incorporate or depend upon Third-Party Materials.

Such Third-Party Materials remain the property of their respective owners and are not owned by G3N3S1S. The Client's use of such materials shall be governed by the applicable third-party licence terms.

G3N3S1S shall use Third-Party Materials in accordance with their applicable licence conditions and shall not knowingly incorporate any open-source component that requires the Client's proprietary source code to be disclosed or licensed to third parties without the Client's prior written consent.

Commercial Third-Party Materials requiring subscriptions, accounts, recurring fees or usage-based charges shall be contracted by or charged to the Client unless otherwise agreed in writing.

Upon reasonable request, G3N3S1S shall provide the Client with a list of material Third-Party Materials incorporated into the Client Deliverables.

Except as expressly stated in this Agreement, G3N3S1S provides no warranty regarding Third-Party Materials beyond any warranty offered by the relevant third-party provider.

Article 15: Publicity

- 15.1 G3N3S1S may reference the work produced under the Agreement as a portfolio or credit reference for its own publicity or PR purposes, provided this is subject to the Client's confidentiality interests and does not disclose the Client Deliverables, their source code or any of the Client's Confidential Information. At the Client's reasonable request, G3N3S1S shall cease or adjust any such reference.

Article 16: Investigation into the Existence of Rights

- 16.1 The Agreement does not include carrying out any investigation into the existence of trademark rights, design protection, patent rights, copyrights or portrait rights of third parties. The same applies to investigation into the possibility of such forms of protection for the Client.

Article 17: Dissolution and Suspension

- 17.1 G3N3S1S is entitled to suspend performance of its obligations or to dissolve the Agreement if:
- the Client fails to fulfil its obligations, or fails to fulfil them fully (even after repeated request);
 - after conclusion of the Agreement, circumstances come to the knowledge of G3N3S1S that give good grounds to fear that the Client will not fulfil its obligations. Where there are good grounds to fear that the Client will only partially or improperly perform, suspension is only permitted to the extent justified by the shortcoming;
 - the Client has been granted a suspension of payment;
 - the Client has been declared bankrupt;
 - a statutory debt restructuring scheme is declared applicable to the Client.
- 17.2 If the Agreement is dissolved, the claims of G3N3S1S against the Client are immediately due and payable in full. If G3N3S1S suspends performance of its obligations, it retains its claims under the law and the Agreement.

Article 18: Liability and Limitation Period

- 18.1 G3N3S1S cannot be held to compensate any damage that is a direct or indirect result of:
- A. an event that is in fact beyond its control and thus not attributable to its acts and/or omissions, such as described in Article 19 of these general terms and conditions;
 - B. any act or omission of the Client, its subordinates, or other persons engaged by or on behalf of the Client.
- 18.2 G3N3S1S does not guarantee that what is delivered is free of any errors and/or incompleteness. G3N3S1S is therefore not liable for any errors and/or incompleteness in delivered products, services or work performed.
- 18.3 G3N3S1S is not liable for damage of any kind whatsoever caused by G3N3S1S relying on incorrect and/or incomplete data provided by the Client.
- 18.4 G3N3S1S is not liable for any damage suffered by the Client because the software is temporarily unavailable, for example due to an error, disruption, update or maintenance work, unless the unavailability of the software through the fault of G3N3S1S is unreasonably long.
- 18.5 In no event is G3N3S1S liable for damage arising from or caused by the Client using what is delivered or made available incorrectly, or using it for a purpose other than that for which it was produced.
- 18.6 G3N3S1S accepts no liability whatsoever if, contrary to the advice of G3N3S1S, the Client insists that certain work nevertheless proceeds.
- 18.7 The Client is obliged, where reasonably possible, to keep copies of materials and data provided by it until the Agreement has been fulfilled. If the Client fails to do so, G3N3S1S cannot be held liable for damage that would not have occurred had these copies existed.
- 18.8 If the Client or a third party makes changes to what is delivered or made available by G3N3S1S, G3N3S1S excludes all liability in respect of the operation and any (consequential) damage.
- 18.9 G3N3S1S is not liable for damage of any kind or on any ground whatsoever caused by services or networks of third parties.
- 18.10 G3N3S1S is not responsible for the content of the Client's website. The Client must itself ensure that the content of its website/database/app does not conflict with the law.
- 18.11 G3N3S1S is never liable for indirect damage, including consequential damage, lost profits, missed savings and damage due to business stagnation.
- 18.12 If G3N3S1S should be liable for any damage, the liability of G3N3S1S is limited to the amount paid out by the insurer of G3N3S1S. If the insurer does not pay out in any case, or the damage is not covered by the insurance, the liability of G3N3S1S is limited to the invoice amount, or at least to that part of the Agreement to which the liability relates.
- 18.13 The limitations of liability set out in these general terms and conditions do not apply if the damage is due to intent or gross negligence on the part of G3N3S1S or its subordinates.

- 18.14 Rights of action and other powers of the Client against G3N3S1S, on whatever ground, lapse in any event upon the expiry of 1 year from the moment a fact occurs by virtue of which the Client can invoke these rights and/or powers against G3N3S1S.

Article 19: Force Majeure

- 19.1 There is force majeure on the part of G3N3S1S where, among other things, G3N3S1S is prevented from fulfilling its obligations under the Agreement or from preparing for it as a result of: war, threat of war, riot, revolution, molestation, fire, water damage, flooding, government measures, import and export restrictions, defects in materials (including computers and other telecommunications equipment), unavailability of materials (including computers and other telecommunications equipment), whether in the business of G3N3S1S, in the business of the Client, or in the business of third parties involved in the Agreement.
- 19.2 Where the force majeure situation on the part of G3N3S1S has lasted longer than 2 months, the Parties have the right to dissolve the Agreement.
- 19.3 To the extent that, at the time force majeure occurs, G3N3S1S has in the meantime partly fulfilled its obligations under the Agreement, or will be able to fulfil them, and the part performed or to be performed has independent value, G3N3S1S is entitled to invoice the part already performed or to be performed separately. The Client is obliged to pay these invoices as if it were a separate agreement.

Article 20: Confidentiality

- 20.1 Both Parties are obliged to maintain the confidentiality of all confidential information that they obtain from each other or from another source in the context of their Agreement. Information is deemed confidential if this has been communicated by the other party or if this follows from the nature of the information. The party receiving confidential information will use it only for the purpose for which it was provided.

Article 21: Final Provisions

- 21.1 The version of the general terms and conditions that applied at the time the Agreement was concluded always applies, unless the Client has accepted the applicability of a revised version of the general terms and conditions after concluding the Agreement.
- 21.2 The Parties will only appeal to the courts after they have made every effort to settle a dispute by mutual consultation.
- 21.3 Dutch law applies to every Agreement between G3N3S1S and the Client.
- 21.4 All disputes concerning Agreements between the Client and G3N3S1S are submitted to the District Court of Amsterdam (Rechtbank Amsterdam).