

# Betty Blocks Ltd – UK General Terms & Conditions

Version: 2021.1.0

These UK General Terms and Conditions (hereinafter: “**Terms**”) apply to any and all agreements between you (the “**Client**”) and between Betty Blocks Ltd, having its registered office in England at 1<sup>st</sup> Floor Holborn Gate, 330 High Holborn, London, WC1V 7QT, England, with company number 11714134 (“**Betty Blocks**”), unless specifically agreed otherwise by the Parties. For any terms and conditions that apply under our Dutch or American legal entity, please visit <https://www.bettyblocks.com> to find our Dutch or USA General Terms and Conditions.

Betty Blocks or Client may individually be referred to as a “**Party**” or collectively as the “**Parties**”. Any other terms or conditions applied by Client that deviate from or that are not included in these Terms only apply if and to the extent such conditions have been explicitly accepted in writing by Betty Blocks.

## 1. Definitions

The definitions used in these Terms also apply to each Agreement and to any of its annexes and are understood to have the following meaning:

- 1.1. **Agreement:** any Order Form incorporating these Terms and any annexes thereto.
- 1.2. **Application(s) and Configuration(s):** the software applications and configurations that are developed by using the Software.
- 1.3. **Business Day:** Monday through Friday, excluding any bank holidays observed in the United Kingdom and The Netherlands, and excluding other holidays observed and announced by Betty Blocks.
- 1.4. **Client Data:** the (personal) data entered into by Client, its authorized Users, or Betty Blocks on Client’s behalf for the purpose of using the Software.
- 1.5. **Deliverable:** any works or functionality created by Betty Blocks under the Agreement, as further specified in the applicable Order Form.
- 1.6. **Documentation:** all materials (whether in hard copy or in electronic format) supplied in connection with the Software and/or Deliverables, including any and all manuals, instruction guides, online documentation, any written materials accompanying the Software and/or Deliverables or other materials provided to Client by Betty Blocks which describe the functionality and/or specifications of the Software and/or Deliverables.

- 1.7. **Intellectual Property Rights:** all intellectual property rights and related rights, including but not limited to copyrights, database rights, domain name rights, trademark rights, brand rights, model rights, neighbouring rights, patent rights and rights to know-how.
- 1.8. **Issue:** a detected disruption or imminent disruption of the agreed level of service provision.
- 1.9. **Normal Business Hours:** 9.00 am to 5.00 pm CET, during each Business Day.
- 1.10. **Order Form:** any ordering document specifying the Services to be provided by Betty Blocks. Each Order Form will automatically incorporate these Terms and form the Agreement.
- 1.11. **Portal:** the online portal made available to Client and which, amongst other things, can be used to approve assignments and access time records.
- 1.12. **Professional Services:** the subcategory of Services consisting of consulting, development (of Deliverables), implementation, and similar tasks, as further detailed in the applicable Order Form.
- 1.13. **Service Level Agreement:** the service level agreement of Betty Blocks which may or may not be applicable as an annex to the Agreement.
- 1.14. **Services:** the services to be provided by Betty Blocks to Client on the basis of the Order Form, including but not limited to the licensing of the Software or the provision of Professional Services, Betty Blocks Service Premium, the Portal and/or the provision of hosting services.
- 1.15. **Software:** the online software platform (Application Platform as a Service) licensed to Client under the Agreement as part of the Services, including the Portal (if applicable).
- 1.16. **Subscription Term:** the Initial Term together with any subsequent Renewal Terms, as referred to in Clause 3.
- 1.17. **Training Courses:** trainings, workshops and/or seminars provided by Betty Blocks and/or a partner of Betty Blocks.
- 1.18. **User:** the User of the Services who has been designated by Client (such as an employee or a student).
- 1.19. **Website:** <https://www.bettyblocks.com> including any and all subdomains and extensions.

## 2. Order Forms

- 2.1. The Parties shall conclude Order Forms on the basis of which Betty Blocks shall perform Services for Client. The Order Forms are inextricably linked to and are supplemented by the provisions in these Terms. The signing of these Terms alone, in the absence of a signed Order Form, shall not create any obligation of Betty Blocks to provide any Services to Client. Any other (general) terms and conditions of Client shall expressly not be applicable to this Agreement. Signed Order Forms shall only create obligations for the Betty Blocks entity signing the Order Form. For the avoidance of doubt, Betty Blocks legal entities that have not signed an Order Form are not jointly and severally liable for any acts and omissions of the Betty Blocks entity that signed the Order Form.

- 2.2. The following order of priority shall apply in the event of inconsistencies between the applicable documents:
- i) the Order Form;
  - ii) these Terms;
  - iii) a Data Processing Agreement;
  - iv) a Service Level Agreement;
  - v) any other annexes, in numerical order.
- 2.3. If Client wishes to purchase additional Services, Client shall notify Betty Blocks in writing. Betty Blocks shall evaluate such request for additional Services and respond to Client with approval or rejection of the request. Where Betty Blocks approves the request, Betty Blocks shall promptly provide the Services to Client. If Betty Blocks approves Client's request to purchase additional Services, Client shall pay to Betty Blocks the relevant fees for such additional Services in accordance with Clause 16. The additional Services will be provided under these Terms and any other terms and conditions as specified in the Order Form.
- 2.4. Clause and paragraph headings shall not affect the interpretation of the interpretation of these Terms. Unless the context requires otherwise, words in the singular shall include the plural and, in the plural, shall include the singular.

### 3. Term and Termination

- 3.1. The term of the Agreement shall commence from the date stated in the Order Form and for the fixed period defined in the Order Form ("**Initial Term**"). If the Initial Term is not specified in the Order Form, the Initial Term shall be deemed to have a duration of thirty-six (36) calendar months. The Agreement may not be terminated in the interim, unless the Parties mutually agree otherwise or as otherwise set forth the Agreement.
- 3.2. Upon expiration of the Initial Term, the term of the Agreement shall automatically renew for additional successive terms of the same duration as the Initial Term ("**Renewal Term**"), unless either Party gives the other Party written notice of non-renewal at least sixty (60) calendar days prior to the beginning of the Renewal Term. Such Renewal Terms shall be under the terms and conditions of the Initial Term, unless Betty Blocks has provided written notice to Client of any amended terms and conditions and/or a pricing increase at least ninety (90) calendar days prior to the beginning of the Renewal Term. In such event, the amended terms and conditions and/or the pricing increase shall apply to the Renewal Term.
- 3.3. Without affecting any other right to remedy available to it, Betty Blocks may terminate the Agreement with immediate effect by giving written notice to Client if Client takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for

the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

- 3.4. In the event of insolvency of Betty Blocks, Client may only terminate the Agreement if such insolvency has the effect that Client can no longer access and use the Software, with the exception of temporary disruptions in accessing and using the Software.
- 3.5. Thirty (30) Business Days after the termination or expiration of the Agreement, for whatever reason, Betty Blocks is entitled to delete or destroy all copies of Client Data, unless agreed otherwise in writing. During the thirty (30) Business Days, Client may request a copy of every MySQL database filled with Client Data. Betty Blocks will not charge any additional costs to Client in providing the copy.
- 3.6. The provisions of the Agreement which, by their nature and content, are intended, expressly or impliedly, to continue to have effect notwithstanding the completion, rescission, termination or expiration of the Agreement shall survive and continue to bind the Parties, and shall in any event include Clauses 19, 20, 21 and 24.

#### 4. License Grant

- 4.1. In consideration of the fees as specified in the Order Form and if and insofar agreed between the Parties in the Order Form, Betty Blocks grants Client a non-exclusive, non-transferable license for the use of the Software for the duration of the Subscription Term and in accordance with the volumes (e.g number of Users), storage capacities and/or limitations specified in the Order Form ("**License Scope**"). The license shall become effective from the time of the conclusion of the Order Form, unless agreed otherwise. Client is not entitled to receive the source code of the Software. As part of the Services, Client shall also have access to the customer portal at [my.bettyblocks.com](https://my.bettyblocks.com).
- 4.2. Notwithstanding anything stated to the contrary in the Agreement, Client is expressly not permitted:
  - i) to reverse-engineer the source code of the Software or to decompile the Software, unless such is allowed pursuant to a mandatory legal provision which may not be lawfully derogated from;
  - ii) to make changes to or modify the Software, unless such is allowed pursuant to a mandatory legal provision which may not be lawfully derogated from or with prior written approval of Betty Blocks;
  - iii) to remove or render illegible indications of Betty Blocks and/or its licensors as Party entitled to the Software or parts thereof; or
  - iv) access all or any part of the Software and Documentation in order to build a product or service which competes with the Software.

- 4.3. Client authorises Betty Blocks to publicly disclose that Client is using the Services and Betty Blocks may use Client's name and logo in any promotional materials, including but not limited to its website and in press releases.
- 4.4. In the event that Client exceeds or is likely to exceed the License Scope as specified in the Order Form, Betty Blocks is entitled to charge Client for any use beyond the agreed upon License Scope by charging Client the corresponding fees in accordance with the Betty Blocks price list, which fees will be added to the monthly payable fees. Betty Blocks will notify Client if Client has exceeded or is likely to exceed the License Scope. In the event that the Order Form does not include any License Scope but only pricing for the Software, the License Scope will be determined on the basis of the applicable Betty Blocks price list.
- 4.5. If, in the course of rendering Professional Services, Betty Blocks creates and delivers to Client any Deliverables, Betty Blocks and its suppliers retain ownership of and all Intellectual Property Rights to the Deliverables, unless the Parties have expressly agreed otherwise in writing by means of a signed instrument, which instrument only applies to the Deliverables referred to in the instrument. Betty Blocks grants Client the non-exclusive, non-transferable right to use the Deliverables on the same terms and conditions under which Betty Blocks grants Client the right to use the Software. Betty Blocks may provide similar services or Deliverables to other clients as long as Betty Blocks does not infringe Client's Intellectual Property Rights.
- 4.6. The rights provided under this Clause 4 are granted to Client only, and shall not be considered granted to any subsidiary or holding company of Client, unless expressly agreed otherwise.

## 5. Trial Version

- 5.1. Before entering into an Agreement for the use of the Software, Client may make use of a trial version of the Software ("**Trial Version**"). Access to the Trial Version can be requested via the Website and/or by means of executing an Order Form. The Trial Version is subject to the terms and conditions of these Terms and any additional terms and conditions indicated on the Website or the Order Form (as the case may be). In the event of a conflict between the provisions of these Terms and the terms and conditions indicated on the Website, the latter shall prevail.
- 5.2. Client expressly acknowledges and agrees that the Trial Version is provided on an "as is" and "as available" basis and that Betty Blocks assumes no liability whatsoever for any kind of damages arising from Client's use of the Trial Version unless caused by the wilful misconduct or deliberate recklessness of Betty Blocks' management.
- 5.3. The Trial Version shall be deemed terminated (1) at the end date of the Trial Version or (2) at the moment the Parties have entered into an Agreement for the Software, whichever occurs earlier.

- 5.4. Upon the expiration or termination of the Trial Version, Betty Blocks shall take all applications created by Client offline and Client Data will remain available for a maximum period of twenty (20) Business Days, unless agreed otherwise in writing.

## **6. Obligations of the Parties**

- 6.1. Betty Blocks shall provide the Services as specified in the Order Form subject to these Terms. Betty Blocks undertakes that the Services will be performed substantially in accordance with the Documentation exercising reasonable skill and care. Betty Blocks shall use reasonable endeavours to meet any performance dates specified in the Order Form, but any such dates shall be estimates only and shall not be deemed to constitute deadlines.
- 6.2. Client shall:
- i) provide all necessary co-operation in connection with the Agreement in a timely and efficient manner. In the event of any delays in Client's provision of such assistance as agreed by the Parties, Betty Blocks may adjust any agreed timetable or delivery schedule as reasonably necessary;
  - ii) provide all necessary access to such information as may be required by Betty Blocks in order to provide the Services, including but not limited to Client Data, security access information and configuration services, and guarantees the accuracy, completeness and consistency of this information;
  - iii) comply with all applicable laws and regulations with respect to its activities under the Agreement;
  - iv) obtain and shall maintain all necessary licenses, consents, and permissions necessary for Betty Blocks to perform its obligations under the Agreement; and
  - v) ensure that its network and systems comply with the relevant specifications provided by Betty Blocks from time to time.
- 6.3. In developing Deliverables, Betty Blocks has the right to use third-party software and components, including open source software. Client is responsible for ensuring proper compliance with the relevant third-party licences when using the Deliverables.
- 6.4. In the event Client does not comply with its obligations under the Agreement, Betty Blocks shall, without prejudice to its other rights and remedies, in any event be entitled to suspend the execution of the Agreement, or to wholly or partially dissolve the Agreement. The foregoing shall also apply in the event of late payment by Client.

## **7. Acceptable Use of the Services and the Software**

- 7.1. Client shall not access, store, distribute or transmit any material during the course of its use of the Services that:
- i) is libellous, defamatory, insulting, racist or discriminating, or incites hate;

- ii) infringes third-party rights, in any case including but not limited to Intellectual Property Rights;
  - iii) violates the privacy of third parties, in any case including but not limited to distributing third-party personal data without permission or necessity, or repeatedly harassing third parties by providing them with unsolicited communications;
  - iv) contains hyperlinks, torrents or similar information of which Client is aware or should be aware that it refers to material that infringes third-party rights;
  - v) is otherwise illegal or causes damage or injury to any person or property.
- 7.2. Client will refrain from obstructing other clients or Internet users or inflicting damage to the Services. Client is prohibited from starting up processes or programs via the Services or otherwise of which Client is aware or can reasonably assume that these will obstruct or inflict damage on Betty Blocks, other clients or Internet users.
- 7.3. Without the agreement of Betty Blocks, Client is prohibited from making available to third parties any user names and passwords made available by Betty Blocks. Betty Blocks is not liable for the consequences of the loss of user names and passwords.
- 7.4. Client will be responsible for the activities of anyone who Client allows to use the Software. Client is also responsible for ensuring that its authorised Users comply with the Agreement with respect to the use of the Software. Client shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and, in the event of any such unauthorised access or use, promptly notify Betty Blocks.
- 7.5. Betty Blocks reserves the right (but has no obligation thereto), without liability or prejudice to its other rights to Client, to disable Client's and/or the authorised Users' access to the Software if Client breaches the provisions of this Clause 7.
- 7.6. Betty Blocks has a fair use policy in relation to accessing and using the Services. For the purpose of this fair use policy, Client may not vary from the average in a disproportionate manner, having regard to the amount of CPU power, data storage and data traffic used by Client. In such event, Betty Blocks is entitled to temporarily limit or restrict access to the Services and/or require Client to purchase additional Services, such as extra storage capacity.

## **8. Availability, Maintenance and Support**

- 8.1. Betty Blocks will use reasonable endeavours to realize the uninterrupted availability of its systems, network and Software, but offers no guarantees in this regard unless otherwise agreed by means of a Service Level Agreement. Betty Blocks also makes no promises or guarantees as to security, availability and integrity of data transfers while making use of the Software, unless it explicitly states otherwise.
- 8.2. Betty Blocks regularly carries out maintenance, adjustments or improvements of the systems, Software, networks of parts thereof which could lead to unavailability of the



Software. Should maintenance, adjustments or improvements require a reduced or total unavailability of the Software, then Betty Blocks will attempt to carry out such maintenance as much as possible outside Normal Business Hours or during non-Business Days and will endeavour to notify Client in advance of the scheduled maintenance. However, Betty Blocks is in no case liable to compensate any damage arising in connection with such maintenance. If Betty Blocks considers that there is a danger to the functioning of its systems, network or Software, Betty Blocks will have the right to implement all measures it considers reasonably necessary to avert or prevent this danger. Since the Software is provided over the public internet, Client is itself responsible for acquiring appropriate internet access and suitable anti-virus protection and the like. Betty Blocks accepts no liability in this regard.

- 8.3. If Client makes use of services of third parties in connection with the Software, such as Amazon Web Services or Microsoft Azure, Client shall make sure that Betty Blocks has access to the required accounts and settings in order for Betty Blocks to provide maintenance and support. Client acknowledges and agrees that without the foregoing access, Betty Blocks cannot provide maintenance and support.
- 8.4. Betty Blocks shall release updates to the Software that address bugs or add new features. Betty Blocks shall make such updates available to Client as soon as practicable.

## 9. Client Data

- 9.1. Client shall own all right, title and interest in and to all Client Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Client Data. Betty Blocks receives a limited license to Client Data for the purpose of providing the Services, including any and all future aspects thereof.
- 9.2. To the extent that Client Data contain personal data within the meaning of the EU General Data Protection Regulation (“**GDPR**”), the Data Protection Act 2018 (DPA 2018) and the United Kingdom General Data Protection Regulation Act 2020, Betty Blocks acts as processor and Client as controller within the meaning of the GDPR. In this case, the Parties will execute a Data Processing Agreement as an annex to this Agreement which shall govern such processing of personal data. In the event Client is a processor, Betty Blocks shall be deemed a sub-processor.
- 9.3. Betty Blocks will make a back-up of Client Data every day. Each back-up remains available for a period of thirty (30) calendar days. The time at which the back-up will be created will be determined by Betty Blocks, unless expressly indicated to the contrary in the Agreement.
- 9.4. In the event of any loss or damage to Client Data, Client’s sole and exclusive remedy shall be for Betty Blocks to use reasonable commercial endeavours to restore the lost or damaged Client Data from the latest back-up of such Client Data maintained by Betty Blocks. Betty Blocks shall not be responsible for any loss, destruction, alteration or



disclosure of Client Data caused by any third party (except those third parties sub-contracted by Betty Blocks).

## 10. Acceptance Testing

- 10.1. The provisions of the Clauses 10.2 up to and including 10.6 only apply if it has been agreed in the Order Form that Betty Blocks will perform Professional Services consisting of software development, and only to the extent that acceptance testing has been agreed in such Order Form. If acceptance testing has not been agreed, Client shall accept the Deliverable in the state that it is in when delivered (on an “as is” and “as available” basis), therefore including all visible and invisible errors and defects.
- 10.2. Prior to the delivery of each Deliverable, Client will be able to test such Deliverable in a testing environment. Betty Blocks will provide Client access to this testing environment by sending a location (URL) and, if necessary, login details. Access to the testing environment is strictly tied to Client. Client is not allowed to gain third parties access to this testing environment by sending the location (URL) and/or the login details to any third party, unless expressly indicated to the contrary in the Agreement. Client is aware that the testing environment is not suitable for production purposes, in whatever form. Client is not allowed to use the testing environment for such purposes. Betty Blocks gives no guarantees regarding the availability, completeness and correct operation of the testing environment. Betty Blocks, however, is aware that the availability of the testing environment is necessary for delivery of the Deliverables. Therefore, Betty Blocks will endeavour to keep the testing environment available.
- 10.3. After the Deliverable has been tested, Betty Blocks will deliver the Deliverable when, in Betty Blocks’ professional opinion, the Deliverable substantially satisfies the applicable functional or technical requirements.
- 10.4. Client must, within seven (7) days after delivery, evaluate the Deliverable and either approve or reject it. The Deliverable will be deemed accepted if:
  - i) Client approves the Deliverable (in writing or digitally);
  - ii) Client commences operational use of the Deliverable, including but not limited to transferring the Deliverable to a production environment; or
  - iii) Client does not reject the Deliverable and/or has not requested a revision round within the aforesaid period.
- 10.5. If Client wholly or partly rejects the Deliverable, Betty Blocks will use commercially reasonable endeavours to remove the reasons for rejection in a timely manner. Betty Blocks can achieve this by either revising the Deliverable in a next sprint, by refuting the reasons which form the basis of the rejection or by providing temporary solutions, such as program bypasses. Client may not refuse to accept a Deliverable because of the existence of minor errors (it being understood as errors that do not reasonably prevent the operational use of the Deliverable). Additionally, the Deliverable may not be rejected

because of aspects that can only be assessed subjectively, including but not limited to aesthetic aspects of interfaces.

- 10.6. Should any Deliverable fail to satisfy the applicable functional or technical requirements after the third resubmission of such Deliverable to Client, the Parties both agree to confer to engage in good faith discussions to resolve the matter. Not satisfying the acceptance testing does, however, not entitle Client to terminate or (partially) dissolve the Agreement.

## 11. Betty Blocks Service Premium

- 11.1. Betty Blocks Service Premium is a Service where the hours are purchased in advance. The number of hours is determined upon commencement of the Agreement. The amount payable by Client for Betty Blocks Service Premium will be agreed in the Order Form. All additional hours will be charged to Client on the basis of subsequent calculation in accordance with Betty Blocks' standard hourly rates.
- 11.2. Betty Blocks keeps time records on the basis of good faith of the hours that it has spent on the Services (maintenance and additional work). The time spent is rounded to the nearest fifteen minutes. The time records as kept by Betty Blocks in the Portal serve as evidence of the hours spent, unless Client provides evidence to the contrary.
- 11.3. Client is able to inspect the time records via the Portal and is required to approve each assignment. Betty Blocks will execute an assignment only after it has been approved by Client. Approval granted in the Portal is binding upon Client.
- 11.4. By means of derogation from Clause 11.3, Betty Blocks shall not be required to await Client's approval with respect to Issues:
  - i) that have a maximum estimated time of one (1) hour;
  - ii) all high and critical Issues; or
  - iii) preventative maintenance with a maximum of three (3) hours per quarter;
  - iv) research time not exceeding ninety (90) minutes.
- 11.5. Betty Blocks has the option to combine Issues. The combination of Issues is referred to as a "milestone". The hours required for a milestone, are submitted to Client for approval (by e-mail or via the Portal). Betty Blocks will start working on the milestone upon receipt of approval, and Betty Blocks has permission to charge an extra 10% at the most, calculated on the total number of approved hours.
- 11.6. Betty Blocks will invoice the amount payable for the Betty Blocks Service Premium in advance.
- 11.7. Client is entitled to transfer a maximum of 20% of the hours that are not used under Betty Blocks Service Premium to a Renewal Term. All other remaining hours will be cancelled.

- 11.8. In the event either the Agreement or only Betty Blocks Service Premium is terminated, Client shall not be entitled to receive a refund of the hours that are not used.
- 11.9. The development of applications and software (Deliverables) falls outside the scope of Betty Blocks Service Premium.
- 11.10. For the duration of Betty Blocks Service Premium, Betty Blocks shall perform no other than the following maintenance activities on Client's behalf:
  - i) the correction of minor faults (bugs) detected in the software by Client which are reproducible;
  - ii) preventative maintenance.
- 11.11. With respect to (but not limited to) the following activities, Betty Blocks will determine whether they fall under the Betty Blocks Service Premium:
  - i) modifying the software if it is deemed necessary due to amended legislation;
  - ii) modifying the interfaces and protocols to enable Client to use the software in connection with other software, equipment and operating systems;
  - iii) installation and configuration of SSL certificates and domain names;
  - iv) repairing at Client's request damage in the software or data that is not attributable to Betty Blocks;
  - v) any other activities, at Betty Blocks's sole discretion.

## **12. Domain Names and IP Addresses**

- 12.1. If the Service consists, in full or in part, of Betty Blocks intermediating on behalf of Client for the acquisition of a domain name and/or IP address, the provisions in this clause also apply.
- 12.2. Client must pay all costs associated with the application and/or registration in accordance with the agreed rates or, in the absence of agreed rates, Betty Blocks' usual rates.
- 12.3. Application for, assignation of and the possible use of a domain name and/or IP address depend on and are subject to the applicable rules and regulations of the registration authorities concerned, including the Foundation for Internet Domain Registration in the Netherlands (Stichting Internet Domeinregistratie Nederland, SIDN) and European IP Networks (Réseaux IP Européens, RIPE). The authority concerned will decide on the assignation of any domain names and/or IP address. Betty Blocks only plays a mediatory role in the application process and cannot guarantee that any application will be accepted.
- 12.4. Client is informed exclusively of registration by the e-mail confirmation from Betty Blocks, which states that the requested domain name has been registered. An invoice for the costs of registration is not a confirmation of registration.
- 12.5. Client indemnifies Betty Blocks against any and all losses connected with (the use of) a domain name on behalf of or by Client.

- 12.6. Betty Blocks is not liable for the loss by Client of its right(s) to a domain name or for the fact that the domain name has been requested by and/or assigned to a third party in the interim, except in the case of wilful misconduct or deliberate recklessness on the part of Betty Blocks' management.
- 12.7. If Betty Blocks registers a domain name on Client's behalf, Betty Blocks will honour requests from Client with respect to moving, transferring or terminating this domain name.
- 12.8. Client is obliged to observe the rules that the registration authorities set for the application for and for the assignation and use of a domain name and/or the IP address.
- 12.9. Betty Blocks is entitled to render the domain name and/or IP address inaccessible or unusable or to transfer or arrange the transfer of the domain name and/or IP address to its own name if Client remains in default in performing the Agreement, which action will however last solely for the period that Client remains in default and solely following the expiry of a reasonable term for performing the Agreement as set out in a notice of default in writing.
- 12.10. In the event of the dissolution of the Agreement owing to breach of contract on the part of Client, Betty Blocks is entitled to revoke the domain name and/or IP address.

### **13. SSL / TLS Certificates**

- 13.1. If the Service consists, in full or in part, of Betty Blocks intermediating on behalf of Client for the acquisition of one or more SSL / TLS certificates, the provisions in this clause also apply.
- 13.2. The application and allocation procedure for SSL certificates is subject to the rules and procedures of the certificate authority issuing the SSL / TLS certificate. The relevant certificate authority decides on the granting of the SSL / TLS certificate and will carry out the necessary checks for this purpose. Betty Blocks only fulfils an intermediary role in the application procedure and does not guarantee that an application will be honoured.
- 13.3. The SSL / TLS certificate is valid for the agreed upon period, unless it is withdrawn prematurely. Betty Blocks and the relevant supplier can withdraw the SSL / TLS certificate immediately if:
  - i) it appears that Client has provided incorrect information for the purpose of obtaining the SSL / TLS certificate; or
  - ii) the reliability of the SSL / TLS certificate, in the opinion of Betty Blocks and/or the supplier, has been compromised.
- 13.4. Betty Blocks has the right to withdraw the SSL / TLS certificate if Client fails to fulfil its obligations under the Agreement and does not remedy this default within fourteen (14) days after notice of default.
- 13.5. Client must comply with all laws and regulations and all conditions set by the certificate authority when using the SSL / TLS certificate.

- 13.6. If the SSL / TLS certificate is withdrawn, the Client will not be entitled to a replacement SSL / TLS certificate or refund of (part of) the fees for the SSL / TLS certificate, unless the withdrawal is due to attributable failure of Betty Blocks. In such a case, Betty Blocks will supply a new SSL / TLS certificate for replacement for the remaining period of the original SSL / TLS certificate.
- 13.7. Betty Blocks will use reasonable endeavours to inform Client before the SSL / TLS certificate expires and will have to be renewed. However, it always remains Client's own responsibility to timely renew SSL / TLS certificates.

## **14. Hosting and Related Services**

- 14.1. If the Service consists, in full or in part, of services regarding the storage of material and/or the transfer or provision of material to third parties, such as in the case of hosting the software, e-mail services developed by Betty Blocks for Client, the provisions of this clause also apply.
- 14.2. If Betty Blocks is informed by a third party of unlawful information on its servers, Betty Blocks is entitled to remove the material or render it inaccessible.
- 14.3. Betty Blocks is authorised at all times to report any criminal acts that are discovered and will cooperate with duly authorised orders and commands. In addition, Betty Blocks is authorised to provide the name, address, IP address and other data identifying Client and/or a User to a third party who has complained that Client and/or a User has violated its rights or the provisions of this Agreement, provided that:
  - i) it is sufficiently plausible that the information, on its own, is unlawful and harmful with regard to the third party;
  - ii) the third party has a genuine interest in obtaining the data;
  - iii) it is plausible that, in the specific case, there is no less far-reaching measure to obtain the data; and
  - iv) examining the interests involved entails that the third party's interest should prevail.
- 14.4. In the event the information concerns information that constitutes a criminal offence, Betty Blocks is entitled to report this information to the police. Betty Blocks may in this case submit all information on Client and the information concerned to the competent authorities and perform all other acts that these authorities request Betty Blocks to perform as part of the criminal investigation.
- 14.5. Client indemnifies Betty Blocks against all legal claims with respect to data, information, websites, etc. that have been stored by Client or its Users. In this regard, Betty Blocks is not liable for any damage or loss suffered by Client caused by any action taken by Betty Blocks following a report from a third party, even if the report turns out to be incorrect and the information is not breaching applicable law.

- 14.6. Betty Blocks may impose a maximum limit on the amount of storage space or data traffic Client may use each month within the framework of the Service. In the event this maximum is exceeded, Betty Blocks is authorised to charge an additional amount in accordance with the amounts charged for additional storage space or data traffic as specified in the Agreement. The Service may also be blocked if Betty Blocks is of the opinion that the capacity of the server/servers used by Client is disproportionate. Betty Blocks accepts no liability for the consequences of not sending, receiving, storing or modifying data if the limit for storage space, capacity or data traffic has been reached.
- 14.7. Client hereby grants Betty Blocks an unlimited licence to distribute, store, forward or copy all materials supplied by Client on Betty Blocks' systems, in a manner deemed appropriate by Betty Blocks, but solely to the extent this is reasonably required for the purpose of Betty Blocks' fulfilment of the Agreement.
- 14.8. Client bears responsibility for its Users. Any damage or loss caused by a User will be recovered from Client.
- 14.9. Client itself is responsible for hardware and software that is operated at its own location or at locations outside Betty Blocks' control. Betty Blocks cannot provide any guarantee whatsoever regarding such hardware and software.

## **15. Training Courses**

- 15.1. The provisions of this clause apply in the event Betty Blocks provides Training Courses.
- 15.2. Betty Blocks will perform the Training Courses to the best of its ability exercising reasonable skill and care. Betty Blocks will be entirely free to determine the contents of the Training Courses and the course materials it provides to Client. Betty Blocks is entitled to change the location of the Training Courses and will timely inform Client of any changes.
- 15.3. Client agrees to act in a responsible manner and shall abide by the rules and regulations that govern the location where the Training Courses are provided. Client must bring its own electronic appliances required for the Training Courses, e.g. laptop and mouse.
- 15.4. The fees for the Training Courses are specified in the Order Form. Drinks and lunch are included in the fees for the Training Courses. All other costs and expenses, such as expenses for accommodation, transportation and any other meals, are not included.
- 15.5. Betty Blocks is authorised to exclude Client from participation in the Training Course if the outstanding amounts are not received by Betty Blocks before the start of the Training Course.
- 15.6. Client is entitled to cancel or reschedule the Training Course up to fourteen (14) calendar days before the (first) day of the Training Course. In the event of cancellation up to fourteen (14) calendar days before the (first) day of the Training Course, Betty Blocks will refund the fees.

- 15.7. Client acknowledges that the course materials that are used and/or presented during the Training Courses constitute the Intellectual Property Rights of Betty Blocks and/or its licensors and Client agrees to respect those Intellectual Property Rights. In particular, Client is not authorised to: (i) copy, modify, sub-licence, sell, decompile, reverse engineer or distribute the course materials; (ii) record the Training Courses on video or audio tape or by other means; or (iii) remove any copyright or other notice of Betty Blocks and/or its licensors from the course materials.

## **16. Charges and Payment**

- 16.1. Client shall pay the fees set out in the Order Form for the Services. All fees are in GBP and exclusive of VAT.
- 16.2. Client shall provide its invoicing details (e.g. purchase order numbers) in a timely manner. Betty Blocks shall comply with reasonable invoicing requirements.
- 16.3. Payment can be made through direct debit collection or by transferring the amount to Betty Blocks' bank account, as specified in the Order Form. All amounts due under the Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 16.4. Each invoice is due and payable fourteen (14) days after the invoice date, unless the Agreement specifies otherwise. If Betty Blocks has not received payment within five days after the due date, and without prejudice to any other rights and remedies of Betty Blocks:
- i) Betty Blocks shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
  - ii) the statutory commercial interest, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998, shall accrue on the outstanding amount. Furthermore, Client shall be obliged to pay all the judicial and extrajudicial collection costs, including the costs of lawyers, bailiffs and debt-collection agencies and the full amount of the remaining period of the Agreement is due and payable immediately to Betty Blocks.
- 16.5. Betty Blocks is authorised to increase its fees once per year on the basis of the Harmonised Index of Consumer Prices as published by the UK's Office for National Statistics, or on the basis of any other changes in the market, in any event not to exceed 5%. In the event that a supplier of Betty Blocks increases its prices for a specific product or service, Betty Blocks is entitled to pass on this increase to Client. Client is not entitled to terminate the Agreement in relation to adjustments under this Clause 16.5.
- 16.6. Betty Blocks is always authorised to require that Client provides sufficient security to ensure that it can comply with its payment obligations, for instance by requiring a bank guarantee or surety or to demand payment of a deposit. The amount of this will be no higher than the amount payable by Client in six (6) months.



- 16.7. Except as expressly indicated to the contrary in the Agreement, all fees for Professional Services shall be provided on a time and materials basis at Betty Blocks' then current professional services rates and shall be invoiced at the end of the calendar month of their performance. The hours shall be accounted for according to Betty Blocks' timesheets. Client acknowledges that the hours set forth in the Agreement, in the Portal and/or as otherwise communicated to Client are merely estimates and the actual number of hours may differ from the estimates, unless expressly indicated to the contrary.

## **17. Additional Work**

- 17.1. In the event of Betty Blocks performing Services, or providing other services at Client's request, which go beyond the scope of the agreed upon Services, Client shall pay for such Services retrospectively on a time and materials basis at Betty Blocks' then current professional services rates. However, Betty Blocks will under no circumstances be obliged to comply with such a request and can require that a separate Agreement is entered into for that purpose.
- 17.2. Client accepts that the Services as referred to in Clause 17.1 can affect the agreed or anticipated time of completion of the Services, as well as the Parties' mutual responsibilities under the Agreement. Betty Blocks may adjust any agreed timetable or delivery schedule as reasonably necessary. The need for or occurrence of additional work during the performance of the Agreement never constitutes a reason for Client to give notice of termination or to (partially) dissolve the Agreement. To the extent a fixed price is agreed for the provision of the Services, Betty Blocks will, upon request, inform Client in writing of the financial consequences of the additional work.

## **18. Intellectual Property Rights**

- 18.1. Client acknowledges and agrees that Betty Blocks and/or its licensors own all Intellectual Property Rights in and to the Services, the Software, the Deliverables and the Documentation, unless and to the extent expressly agreed otherwise by means of signed instrument. Client is not permitted to remove or alter any statement concerning copyright, trademarks, trade names or other Intellectual Property Rights from the Services, the Software, the Deliverables and/or the Documentation. Client is not permitted to use or request domain names identical to or that confusingly correspond to any object that is subject to any Intellectual Property Right belonging to Betty Blocks and/or its licensors.
- 18.2. Betty Blocks acknowledges and agrees that all Intellectual Property Rights in and to the Application(s) and Configuration(s) created by Client are owned by Client and shall, notwithstanding the terms of the Agreement, remain vested in Client, provided that these rights accrue to Client by law. Unless otherwise expressly provided in the Agreement, Betty Blocks shall not acquire any Intellectual Property Rights in the

Application(s) and Configuration(s) created by Client. Betty Blocks will treat the Application(s) and Configuration(s) as confidential Client information and will not make them available to third parties without Client's separate permission. However, Betty Blocks cannot rule out that another client may choose a similar configuration, as this is beyond Betty Blocks' control.

## 19. Confidentiality

- 19.1. A Party receiving confidential information from the other Party shall treat this as strictly confidential and use this solely in connection with its rights and obligations under the Agreement.
- 19.2. Confidential information includes all information of which it can be assumed from the context that the disclosing Party would deem this to be confidential or of which the receiving Party should reasonably have recognized its confidential nature from the content of the information. Confidential information also includes all information and data concerning or pertaining to the Agreement, the Services, pricing, service levels, Client Data, and more generally data concerning business operations, marketing, research, development, inventions, know-how, samples, product and service specifications, software, business relations, irrespective of the form in which this has been recorded or is provided.
- 19.3. The obligation to treat certain information as confidential no longer applies if the receiving Party can prove that this information:
  - i) is or becomes publicly available through no act or omission of the receiving Party;
  - ii) was already in possession of the receiving Party prior to the date on which it was issued by the disclosing Party;
  - iii) is available from a third party without this party being in default towards the disclosing Party arising from a confidentiality clause by distributing the information to the receiving Party; or
  - iv) was developed by the receiving party independently and without the use of the information of the disclosing Party.
- 19.4. Should a competent court or other government authority demand access to confidential information, the receiving Party is entitled to grant such access. However, to the extent permitted by applicable law, the receiving Party shall contact the disclosing Party prior to doing so, to enable the disclosing Party to take legal action against such access (e.g. an interim measure with a competent court). However, the receiving Party shall never be liable for granting access if legally obligated.
- 19.5. The provisions of this Clause 19 shall continue to be effective after the expiration or termination of the Agreement.

## 20. Limitation of Liability

- 20.1. Betty Blocks' total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to the amount that Client has paid under the Agreement during the three (3) months immediately preceding the breach or the act giving rise to liability (exclusive of VAT) but shall in any event not exceed the amount of GBP 25.000 on an annual basis. All warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from the Agreement.
- 20.2. Betty Blocks shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Agreement.
- 20.3. Any limitation or exclusion of liability stipulated in these Terms shall not apply in the event that the loss and/or damage is attributable to (1) wilful misconduct or deliberate recklessness of Betty Blocks' management, (2) death or bodily injury, (3) fraud or fraudulent misrepresentation, or (4) any other matter for which it is unlawful to limit or exclude liability.
- 20.4. Subject to the provisions of this clause, Betty Blocks shall only be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement if Client declares Betty Blocks to be in default by giving written notice without delay and grants Betty Blocks a reasonable term (at least thirty (30) days) to remedy the breach, and Betty Blocks culpably fails to fulfil its obligations also after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Betty Blocks the opportunity to respond adequately.
- 20.5. Any right to claim compensation is at all times subject to the condition that Client notifies Betty Blocks of the loss and/or damage in writing within no more than thirty (30) days of its discovery.
- 20.6. Client shall indemnify, defend and hold harmless Betty Blocks and its officers, agents and employees, from and against any and all claims, damages, liabilities, losses and/or expenses (including attorneys' fees and costs) incurred by Betty Blocks and arising out of or in connection with Client's use of the Software, the Services, the Deliverables, the Documentation and/or Client's breach of the terms and conditions of the Agreement.

## 21. Force Majeure

- 21.1. Neither Party will be bound to comply with any obligation if the Party is prevented from doing so as a result of force majeure. Force majeure includes in particular but is not limited to domestic disturbances, mobilisation, war, transportation blocks, strikes, epidemics, pandemics, network attacks such as SYN (synchronous) floods or (distributed) denial of service attacks, business interruptions, supply stagnation, fires, floods, import and export obstructions, internet failures and in the event Betty Blocks' suppliers prevent Betty Blocks from complying with its obligations under the Agreement.
- 21.2. In case of force majeure, the affected Party will use its best efforts to find a suitable remedy or alternative source to overcome said force majeure.
- 21.3. Each Party has the right to suspend compliance with its obligations under the Agreement during the period of force majeure. If this period exceeds sixty (60) days, each Party will have the right to terminate the Agreement without being obliged to pay compensation to the other Party.

## 22. Staff

- 22.1. Client is not permitted to employ Betty Blocks employees or to allow such employees to work for Client in any other manner, either directly or indirectly, without Betty Blocks' prior permission in writing for as long as the relationship between Client and Betty Blocks continues plus one year after the relationship has ended. In this connection, Betty Blocks employees are considered to mean persons employed by Betty Blocks or by one of its affiliates, or those who were employed by Betty Blocks or by one of its affiliates within the previous twelve (12) months.

## 23. Notice

- 23.1. Where these Terms and/or an Agreement refers to "notify" or the giving of "notice", such notice must be given (i) personally to an authorised representative of the other Party (notice will be deemed given at the moment of delivery) or (ii) by email (notice will be deemed given on the date and at the time the email was received).

## 24. Entire Agreement

- 24.1. The Agreement, together with any documents referred to in it, constitutes the whole agreement between the Parties relating to its subject matter and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature, whether in writing or oral, relating to such subject matter.

## **25. Third Party Rights**

- 25.1. Unless expressly indicated to the contrary, no person or entity who is not a party to these Terms and/or the Agreement shall have any rights under the Contracts (Rights of Third Parties) Act 1999.

## **26. Waiver**

- 26.1. A waiver of any right under these Terms and or the Agreement is only effective if it has been agreed in writing and shall only apply to the Party to whom the waiver is addressed and solely to the circumstances for which it is given. A failure or delay of either Party to exercise any rights under these Terms and/or the Agreement shall under no circumstance be deemed to constitute a waiver of that right.

## **27. Relationship of the Parties**

- 27.1. Nothing in these Terms and/or the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorise any Party to make or enter into any commitments for or on behalf of any other Party.

## **28. Amendments and Severability**

- 28.1. Betty Blocks reserves the right to change or supplement the Agreement at any time, if and insofar the amendment is necessary because of (changing) legislation or if it does not concern material conditions of the Agreement. In these events, Client is not entitled to terminate the Agreement. In all other respects, variations shall only be effective if it has been agreed in writing and signed by both Parties.
- 28.2. If any provision, or part of a provision, of the Agreement is found by any court or authority of competent jurisdiction to be illegal, invalid or otherwise unenforceable, that provision or part-provision shall be deemed not to form part of the Agreement, and the legality, validity or enforceability of the remainder of the provisions of the Agreement shall not be affected, unless otherwise required by operation of applicable law.
- 28.3. The Parties shall use all reasonable endeavours to agree within a reasonable time upon any lawful and reasonable variations to the Agreement which may be necessary in order to achieve, to the greatest extent possible, the same commercial effect as would have been achieved by the provision, or part-provision, in question.

## **29. Miscellaneous Terms**

- 29.1. The Agreement is governed exclusively by the laws of England.
- 29.2. Any disputes between the Parties that cannot be settled amicably will be submitted to the Courts of London, England.

- 29.3. The version of any communication of information as recorded by Betty Blocks shall be deemed to be authentic and conclusive, unless Client supplies proof to the contrary.
- 29.4. Where the Agreement refers to “written” or “in writing”, this also includes e-mail communication provided the identity of the sender and the integrity of the content can be adequately established.
- 29.5. Client may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement without the prior written consent of Betty Blocks. Betty Blocks will not be authorised to assign, novate or otherwise transfer the Agreement and all its rights and obligations arising therefrom without Client’s prior written consent, unless such occurs within the Betty Blocks group of undertakings or for purposes of corporate financing, provided however that Client may still access and use the Software.