



## General Terms and Conditions of Shuffly B.V., Shuffly and Shuffly International B.V. | version 2023.01

### 1 Applicability

- 1.1 These Terms and Conditions apply to all offers and Agreements and the resulting obligations relating to the delivery of Products, provision of Services and/or Rights of Use (licences) by Shuffly B.V. (Ch. of Comm. 90839331) and its affiliated companies, including Shuffly (Ch. of Comm. 72396598) and Shuffly International B.V. (Ch. of Comm. 90843061), having their registered office and principal place of business in Eindhoven, hereinafter to be referred to as 'Shuffly'.
- 1.2 In the event of a conflict between any specific provisions of or under the Agreement and these Terms and Conditions, the provisions of or under the Agreement prevail.
- 1.3 Any stipulations varying from these Terms and Conditions are valid only if and to the extent that they have explicitly been agreed in writing.
- 1.4 If one or more provisions of these Terms and Conditions are void or voidable this does not affect the validity of the other provisions. In the event of the voidness of one or more of the provisions of these Terms and Conditions, the parties are bound by rules with the same purport to the extent possible that are not subject to voidness.
- 1.5 The Other Party's Terms and Conditions and Purchase Conditions are expressly rejected and do not apply to this Agreement.
- 1.6 Nothing in these Terms and Conditions influences the mandatory statutory provisions for Consumers.

### 2 Definitions

The following capitalised terms have the stated meaning:

**Agreement:** an agreement concluded between Shuffly and the Other Party, possibly with schedules;

**Company:** a company or a legal entity, pursuing professional or commercial activities, not being a Consumer, with whom Shuffly enters into an Agreement;

**Confidential Information:** all oral or written information provided by one of the parties that is clearly confidential, as well as all information in respect of which the relevant party states that it must be treated confidentially, as well as information in respect of which the parties should expect that it is treated confidentially. Confidential Information in any event includes: personal data, address details, customer/supplier files, know-how, information and company information that will be shared upon entering into and performing the Agreement, or that a party takes note of, and the contents of the Agreement and the Terms and Conditions;

**Consumer:** a natural person, not pursuing professional or commercial activities, with whom Shuffly enters into an Agreement;

**Defect:** an error in the Product or the Service as a result of which the Product or the Service does not function in accordance with the agreed specifications, or otherwise the failure of the Product or the Service to comply with the Agreement;

**Documentation:** technical and functional descriptions, and user manuals, in any form whatsoever;

**Intellectual Property:** patent rights, copyrights, rights to drawings and designs and/or other rights or intellectual property rights, as well as technical and commercial know-how, methods and drafts, whether or not suitable to be patented;

**Other Party:** the contracting party with whom Shuffly enters into an Agreement, i.e. a Consumer or a Company;

**Products:** movable property of Shuffly that is delivered to the Other Party by or on behalf of Shuffly on the basis of an Agreement, including a Rental Agreement;

**Rental Agreement:** the Agreement by which Shuffly allows the Other Party to use a Product or a Service, under which the Other Party does something in return, under which the Other Party only has a Right of Use;

**Rights of Use:** the Other Party's right to use the Product or the Service without requiring a transfer of the right of ownership from Shuffly to the Other Party;

**Services:** all services provided on the basis of an Agreement between Shuffly and the Other Party, including a Rental Agreement;

**Terms and Conditions:** these Terms and Conditions of Shuffly.

### 3 Offers and formation of Agreements

- 3.1 All offers made by Shuffly are valid for 30 (thirty) days and are without any obligation.
- 3.2 An Agreement is formed only after Shuffly has confirmed this, or if the performance of the Agreement has started.
- 3.3 Arrangements or arrangements to the contrary are only binding on the parties if they have been recorded in writing and have been confirmed by Shuffly.
- 3.4 Upon the formation of the Agreement, the Other Party agrees to the use of electronic means of communication (including e-mail).

### 4 Prices and retention of title

- 4.1 The prices offered by Shuffly and/or agreed between the parties are always in euros (€), including or excluding VAT.
- 4.2 Upon entering into the Agreement, Shuffly has the right to demand a down payment, among other things for the provision of security.
- 4.3 Shuffly has the right to adjust the prices. The Other Party accepts such price adjustment if this is the direct result of a change in external factors. Any change to the applicable rate that is to the Other Party's disadvantage will be communicated in writing one month before it enters into effect.
- 4.4 All Products delivered and sold by Shuffly remain the property of Shuffly until the Other Party has paid all amounts due to Shuffly – including interest and costs – and Shuffly has received them in the agreed bank account.
- 4.5 All Products and Services that Shuffly has allowed to use/rented out remain the property of Shuffly at all times. The Other Party only has a Right of Use during the term of the Agreement.
- 4.6 Payments must be made within the term stated on the invoice. If no payment term is stated, Shuffly applies a payment term of 30 (thirty) days.
- 4.7 If Shuffly cannot deliver the Products and/or provide the Services in accordance with the Agreement on account of circumstances for which Shuffly cannot be

blamed, including force majeure, the Other Party's payment obligations remain in force, unless Shuffly has provided otherwise.

### 5 Performance of the Agreement

- 5.1 The agreed delivery periods are target dates only and are never strict deadlines. Delivery periods take effect at the time that the Other Party has provided all information and items to Shuffly that are required for the performance of the Agreement.
  - 5.2 Products are delivered 'ex works'.
  - 5.3 Shuffly delivers the Products to the Other Party by making them available to the Other Party in Shuffly's business premises, at any rate an area designated by Shuffly. The Other Party is therefore responsible for all costs associated with packaging and transport to the desired destination.
  - 5.4 If delivery is not possible as a result of a cause within the Other Party's area of responsibility, Shuffly has the right to recover the costs of storage/safekeeping from the Other Party.
  - 5.5 Default on the part of Shuffly always requires a written notice of default in which Shuffly is given a reasonable period to fulfil its obligations. This period will amount to a minimum of 14 (fourteen) days.
  - 5.6 The Other Party has the right at all times to request Shuffly for a reasonable change relating to the Services to be provided by Shuffly under the Agreement. Within a reasonable period, Shuffly must provide a specification of any consequences of such a change. The Other Party has the right to withdraw the request for change within 5 (five) working days of receipt of this specification, in the absence of which the changed Service will be provided.
  - 5.7 Shuffly has the right to change the Services unilaterally (including to discontinue or limit any use thereof), without being obliged in any manner whatsoever to compensate the costs or additional costs resulting from this for the Other Party. Shuffly must communicate any change to the Other Party's disadvantage at least 1 (one) month before the change. In that case, the Other Party has the right – within 5 (five) working days of receipt of this notification – to cancel the purchase of the Services (including rental services) with effect from the date on which the change would take effect.
  - 5.8 Shuffly has the right to use the services of any third parties appointed during the performance of the Agreement.
  - 5.9 Only if the Parties explicitly agree on this will Shuffly perform Services relating to maintenance and repairs.
  - 5.10 If it becomes evident that Shuffly must carry out maintenance or work as a result of or relating to the Other Party's usage errors, improper use by the Other Party, failure by the Other Party to report breakdowns in good time, external factors and applications and the actions of third parties, Shuffly may charge the Other Party an additional fee.
- ### 6 Complaints
- 6.1 The Other Party is obliged to inspect the Products and/or Services immediately upon delivery.
  - 6.2 Visible Defects – including deviations from the Agreement – must be reported to Shuffly in writing within 24 hours of delivery, in the absence of which the Other Party will not have any right of action with respect to the defect.
  - 6.3 Other defects must be reported to Shuffly in writing within 24 hours after they have been discovered, or reasonably could have been discovered, in the absence of which the Other Party will not have any right of action with respect to the defect.
  - 6.4 Complaints relating to Shuffly's invoices must be reported to Shuffly in writing within 5 (five) working days of the invoice date, in the absence of which the invoice is deemed to have been approved by the Other Party.

### 7 Guarantee

- 7.1 The guarantee period for Products is 12 (twelve) months after delivery. In the event that Services are used, a guarantee period of 12 (twelve) months applies in combination with a service contract. A guarantee is not provided in the following cases: incorrect and improper use, defective installation or commissioning by the Other Party or third parties, natural wear and tear, incorrect or careless treatment, improper maintenance, inadequate company equipment, defective construction.

### 8 The Other Party's obligations

- 8.1 The Other Party must handle the Products with due care and bears all expenses involved in ensuring this. The Other Party is responsible for the use during the period that the Other Party exercises the Rights of Use granted by Shuffly, including a Rental Agreement. Any unauthorised use, violation of laws and regulations, and use that otherwise falls outside the scope of the Services provided/Rights of Use granted by Shuffly is at the Other Party's risk and expense.
- 8.2 The Other Party must treat the Products delivered and/or Services provided by Shuffly, including the Rights of Use, in accordance with the manual/instructions provided and within the limits of normal use, in the absence of which Shuffly cannot guarantee the correct functioning thereof, causing the guarantee to lapse.
- 8.3 The Other Party is not allowed to relocate Products that Shuffly is still the owner of and/or to make changes to them. The Other Party is also not allowed to transfer the Products and the obligations under the Agreement and/or to encumber them with any right or limited right. The Parties intend the effect on property rights that ensues from Section 3:83 (2) of the Dutch Civil Code.
- 8.4 The Other Party may not provide to third parties the Products, Services or Documentation provided by Shuffly.

### 9 Costs

- 9.1 If an invoice is not paid, not in good time and/or not fully the Other Party is in default without notice of default and all payment obligations are immediately due and payable in full.
- 9.2 If the invoice has not been paid or has not been paid in full on the due date, the Company must pay Shuffly interest on this amount from the due date of the

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invoice until the date of payment in full, equivalent to 1.5% (one and a half percent) a month, where part of the month counts as a full month. Moreover, the Other Party is obliged to reimburse all judicial and extrajudicial costs reasonably incurred by Shuffly. These costs are established at 15% of the principal sum, subject to a minimum of €500.00. The Other Party is obliged to immediately pay Shuffly the interests and costs on demand.

- 9.3 If a Consumer is in default, Shuffly will allow them another period of 14 (fourteen) days to as yet fulfil their payment obligations, in the absence of which statutory sanctions apply.
- 9.4 If Shuffly has had to discontinue the fulfilment of obligations under the Agreement because invoices have not been paid, not in good time and/or not in full, any loss caused by this is at the Other Party's expense.

## 10 Liability and indemnity

- 10.1 Shuffly must do its utmost to fulfil the obligations under the Agreement. If Shuffly fails to fulfil any obligation on its end towards the Other Party and is in default, Shuffly's liability for compensation will be limited to the amount that is paid out under the insurance taken out by Shuffly.
- 10.2 Shuffly's liability is limited at all times to the direct damage or loss suffered/proved by the Other Party, and Shuffly's liability will never exceed the purchase value of the relevant purchase order at Shuffly.
- 10.3 Any other form of damage or loss is excluded from liability, including but not limited to consequential damage or loss, lost profits, lost business opportunities, and the costs to limit, prevent and assess damage or loss. The Other Party undertakes towards Shuffly to take out insurance against such damage or loss.
- 10.4 The Other Party indemnifies Shuffly against third-party claims of any nature whatsoever that are related to or result from the use of the Products and Services.

## 11 Suspension, termination and early termination by giving notice

- 11.1 Shuffly is authorised to suspend the fulfilment of its obligations or to terminate the Agreement, if:
- the Other Party does not, not fully or not in good time fulfil the obligations under the Agreement even after having received a written or oral demand in that respect;
  - after concluding the Agreement Shuffly has learned of circumstances that give good reason to fear that the Other Party will not fulfil the agreed obligations;
  - the Other Party has been granted a suspension of payments, has been put into liquidation or declared bankrupt, has been admitted to the debt restructuring scheme or has adopted a winding-up resolution;
  - because of delay on the Other Party's end, Shuffly can no longer be required to fulfil the Agreement on the originally agreed upon conditions;
  - circumstances occur that are of such a nature that they make fulfilment of the Agreement impossible or that unaltered maintenance of the Agreement cannot reasonably be required of Shuffly.
- 11.2 If termination of the Agreement is attributable to the Other Party, Shuffly is entitled to compensation, including the directly or indirectly resulting costs.
- 11.3 If the Agreement is terminated, Shuffly's claims against the Other Party are immediately due and payable in full.
- 11.4 The Company hereby waives the right to early termination by giving notice, termination or suspension of the Agreement. Shuffly and the Company exclude the applicability of Section 6:271 of the Dutch Civil Code.

## 12 Intellectual Property

- 12.1 The Intellectual Property rights relating to all Documentation, Services and/or Products provided by Shuffly, as well as the Confidential Information, remain vested in Shuffly.

## 13 Confidentiality

- 13.1 Without prejudice to the rights granted to the Other Party in the Agreement and the Terms and Conditions, the parties and their employees must keep Confidential Information confidential, regardless of whether it has been disclosed orally or in writing. This obligation will remain vested in them for an indefinite period, even after the Agreement has been terminated.

## 14 Force majeure

- 14.1 If Shuffly, for any reason beyond its control, including force majeure pursuant to Section 6:75 of the Dutch Civil Code, temporarily or permanently is unable to fulfil the Agreement, Shuffly will not be in default and will have the right to suspend its obligations.
- 14.2 If fulfilment of the obligations by Shuffly is permanently impossible, Shuffly will have the right to terminate the Agreement by giving notice. In such a case, the Other Party may terminate the Agreement after 30 (thirty) days have passed.
- 14.3 In none of the cases referred to in this article is Shuffly obliged to pay any compensation for damage or loss suffered by the Other Party.

## 15 Privacy and personal data

- 15.1 Shuffly and the Other Party must act with due observance of the relevant privacy legislation, including the General Data Protection Regulation (GDPR), and must only collect and process personal data if they have a ground for the processing of such data.
- 15.2 If Shuffly and the Other Party must at any time be regarded as the controller and the processor within the meaning of the GDPR, they undertake to enter into a processing agreement to this end, with due observance of their obligations under the GDPR.
- 15.3 The Other Party must guarantee towards Shuffly that the processing of personal data will take place legally and that the rights of third parties will not be violated. The Other Party indemnifies Shuffly against any legal proceedings instituted by third parties for any reason whatsoever if these proceedings are related to the processing of personal data by the Other Party, and against all fines imposed on the Other Party by the Dutch Data Protection Authority or other authorised supervisory authorities.

## 16 Term and termination of the Agreement

- 16.1 A continuing performance contract between Shuffly and the Other Party has a term of 1 (one) year from the time that the Agreement takes effect. After the expiry of this period, the contract will each time be renewed tacitly by another period of 1 (one) year, unless the contract is terminated by giving notice, in which case a notice period of 3 (three) months must be observed. Any early termination will not result in the repayment of any amounts paid to Shuffly and will not affect the Other Party's payment obligations.
- 16.2 Contrary to the provisions of Article 16.1, a continuing performance contract is terminated by operation of law or continued for an indefinite period of time after the expiry of the term of 1 (one) year, in which respect a notice period of 1 (one) month applies to Consumers.
- 16.3 If an Agreement is entered into for a definite period and/or for a specific Service, the Other Party cannot terminate this Agreement early by giving notice. If an Agreement is extended tacitly for a definite period of time, this is done on the same conditions that were agreed on in the original Agreement.

## 17 Dispute resolution

- 17.1 The Agreement and the obligations covered by it are governed exclusively by Dutch law. The United Nations Convention on Contracts for the International Sale of Goods ("Vienna Sales Convention") is explicitly not declared applicable.
- 17.2 Disputes between the parties will be submitted exclusively to the competent Court of Oost-Brabant and to the court that has jurisdiction under mandatory law.