

xomnia

General terms and conditions

Valid from: 12 February 2026

Xomnia delivery conditions

These General Terms and Conditions, hereinafter referred to as '[Xomnia General Terms and Conditions](#)' consist of the following two chapters:

- Chapter 1 General
- Chapter 2 Consultancy services

Chapter 1: General

1.1 General

This chapter "General" applies to all offers and agreements in which Xomnia B.V. or one of the companies belonging to its group (in the sense of Article 2:24b of the Dutch Civil Code), hereinafter (whether or not collectively) referred to as: "Xomnia", provides services to its Client (hereinafter "Client"). Xomnia and Client are collectively referred to as "Parties". These General Terms and Conditions also apply to any further or successor agreements between Xomnia and Client. Client is deemed to have agreed to them.

Deviations from and additions to these Xomnia General Terms and Conditions are only valid if agreed in writing between Parties. The applicability of Client's purchase or other (general) conditions is expressly rejected in advance.

If any provision of these Xomnia General Terms and Conditions is null and void or annulled, the other provisions of these Xomnia General Terms and Conditions will remain in full force and effect. In such a case, Xomnia and the Client will consult with a view to agreeing new provisions to replace the void or annulled provisions, taking

into account as much as possible the purpose and meaning of the void or annulled provisions.

If that which is offered or delivered consists of hardware and/or software, the specific terms of delivery of third parties related to the relevant hardware and/or software shall apply between the Client and the relevant third party. These provisions prevail over the provisions of these Xomnia General Terms and Conditions.

1.2 Offers

All offers and other expressions of Xomnia are without obligation, unless otherwise indicated by Xomnia in writing.

Client warrants the accuracy and completeness of all information provided to Xomnia by or on its behalf.

1.3 Price and payment

All prices are exclusive of sales tax (VAT) and other government levies. Unless otherwise agreed, all prices are in Euros and Client must make all payments in Euros within 30 days of the invoice date.

All pre-calculations and budgets issued by Xomnia are indicative only, unless Xomnia indicates otherwise in writing. No rights or expectations can ever be derived by the Client from an estimate or budget issued by Xomnia. An available budget made known by the Client to Xomnia never applies as an agreed (fixed) price between the Parties for services to be performed by Xomnia. Only if agreed in writing between the Parties is Xomnia obliged to inform the Client in case of an imminent overrun of a pre-calculation or budget provided by Xomnia.

If the Client consists of multiple natural persons and/or legal entities, each of those persons is jointly and severally bound to fulfill the Agreement with Xomnia.

The Parties will lay down in the Agreement the date or dates on which Xomnia will charge the Client for the agreed deliverables. Amounts due shall be paid by Client according to the payment terms agreed upon or stated on the invoice. Client is not entitled to suspend any payment nor to set off amounts due.

If, after a demand for payment or notice of default, the Client fails to pay an outstanding debt, Xomnia will hand the debt over to a bailiff, in which case, in addition to the total amount then owed, the Client is also obliged to pay all judicial and extrajudicial costs. This does not affect Xomnia's other legal and contractual rights.

Xomnia has the option to index its rates annually, as of January 1 of the following year, based on the CPI (Consumer Price Index) as published by Statistics Netherlands (CBS).

1.4 Confidentiality and non-solicitation of personnel

Client and Xomnia shall ensure that all data received from the other Party which is known or reasonably should be known to be of a confidential nature shall remain secret. This imperative does not apply to Xomnia if and to the extent that disclosure of the data in question to a third party is necessary pursuant to a court order, a legal requirement or for the proper performance of the Agreement by Xomnia. The Party receiving confidential data shall only use it for the purpose for which it was provided. Data is considered confidential in any case if it is designated as such by one of the Parties.

Xomnia's employees are qualified IT personnel and specialists in the field of Data & AI. The Client is therefore not permitted, without the prior written consent of Xomnia, to approach any employees of Xomnia, either directly or indirectly, during or up to 12 months after the termination of the agreement entered into between Xomnia and Client, with a view to terminating their employment with Xomnia. In the event of a breach of the provisions of this article, Xomnia reserves the right, without notice of default being required, to charge the Client an immediately payable penalty of 40 times the average daily fee as specified in the sub-agreement and/or the average daily fee for Xomnia for similar work for each breach.

1.5 Privacy, data processing and security

If Xomnia considers it important for the performance of the Agreement, the Client shall, upon request, promptly inform Xomnia in writing of the manner in which the Client performs its obligations under personal data protection legislation.

The Client shall indemnify Xomnia for claims of persons whose personal data have been registered or are processed in the context of a personal data registration kept by the Client or for which the Client is otherwise responsible by law, unless the Client proves that the facts underlying the claim should be attributed exclusively to Xomnia.

Responsibility for data processed using a service provided by Xomnia rests solely with Client. Client warrants to Xomnia that the content, use and/or processing of the data is not unlawful and does not infringe any third party right. Client indemnifies Xomnia against any legal claim by third parties, for whatever reason, in connection with this data or the performance of the Agreement.

If the Agreement requires Xomnia to provide some form of information security, such security will meet the specifications regarding security as agreed between the Parties

in writing. Xomnia does not warrant that information security will be effective under all circumstances. In the absence of explicitly defined security in the Agreement, security will meet a level that is not unreasonable, given the state of the art, the sensitivity of the data and the costs associated with providing security.

If computer, data or telecommunication facilities are used in the execution of the Agreement or otherwise, Xomnia is entitled to assign access or identification codes to the Client. Xomnia is entitled to change assigned access or identification codes. Client shall treat access or identification codes confidentially and with care and shall disclose them only to authorized personnel. Xomnia is never liable for damages or costs resulting from use or misuse made of access or identification codes, unless the misuse was possible as a direct result of an act or omission by Xomnia.

1.6 Retention of title, right of retention and suspension

All items delivered to Client remain Xomnia's property until all amounts owed by Client to Xomnia under the agreement entered into between Xomnia and Client have been paid in full to Xomnia.

The property law consequences of the retention of title to an export item are governed by the law of the State of destination if that law contains more favorable provisions for Xomnia in this regard.

Rights, including rights of use, are granted or transferred to the Client under the condition that the Client has paid in full all fees due under the agreement concluded between the Parties. If, for the granting of a right of use, the Parties have agreed on a periodic payment obligation of the Client, the right of use shall accrue to the Client as long as he fulfills his periodic payment obligation.

Xomnia may retain goods, products, property rights, data, documents, software, data files and (intermediate) results of Xomnia's services received or generated in connection with the Agreement, notwithstanding any existing obligation to surrender or transfer, until the Client has paid all amounts owed to Xomnia.

1.7 Risk

The risk of loss, theft, embezzlement or damage to goods, products, data, documents, software, data files or data (codes, passwords, documentation, etc.) manufactured or used in the execution of the Agreement, passes to the Client at the moment they are shipped or transferred for transport to the Client or an assistant of the Client, or are otherwise beyond the actual control of Xomnia.

Any tax consequences, including customs duties, import or export duties (including "stamp duties") or similar levies, on the part of Xomnia or attached to the goods or services provided by Xomnia, that arise as a result of or by reason of entering into an agreement with Xomnia or the delivery of the services provided by Xomnia or goods produced, sold or made available by Xomnia, are at the expense and risk of Client.

1.8 Intellectual property rights

If Xomnia is willing to undertake to transfer a right of intellectual property, such an undertaking can only be made expressly in writing. If the Parties agree in writing that a right of intellectual property with respect to software, websites, data files, equipment or other materials developed specifically for the Client, will be transferred to the Client, this does not affect Xomnia's right or ability to use and/or exploit the components, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like underlying that development for other purposes, either for itself or for third parties, without any limitation. Nor does the

transfer of an intellectual property right affect Xomnia's right to make developments for itself or a third party that are similar or derived from those made or to be made for the benefit of the Client.

Unless the Parties agree otherwise in writing, all intellectual property rights to the software, websites, data files, equipment or other materials such as analyses, designs, documentation, reports, offers, as well as preparatory materials thereof developed or made available to the Client pursuant to the Agreement belong exclusively to Xomnia, its licensors or its suppliers. Client obtains only the user rights expressly granted by these terms and conditions and the law. Any right of use granted to Client is non-exclusive, non-transferable to third parties and non-sublicensable.

The Client is not permitted to remove or change, or cause to be removed, any indication concerning the confidential nature or concerning copyrights, brands, trade names or any other intellectual property right from software, websites, data files, equipment or materials.

Even if the Agreement does not expressly provide for this, Xomnia is permitted to make technical provisions to protect software, equipment, data files, websites and the like in connection with an agreed limitation in the content or duration of the right to use these objects. The Client is not permitted to remove such a technical provision or have it removed or circumvented.

1.9 Cooperation obligations

Parties recognize that the success of work in the field of information and communication technology generally depends on proper and timely mutual cooperation. Client will always cooperate and provide any data and information reasonably requested by Xomnia in a timely manner. If Client deploys its own

personnel and/or auxiliary persons as part of providing cooperation in the execution of the Agreement, such personnel and auxiliary persons shall have the necessary knowledge, expertise and experience.

Client bears the risk of the selection, use, application and management in its organization of the equipment, software, websites, data files and other products and materials and of the services to be provided by Xomnia. Client always takes the utmost care for the proper installation, assembly and commissioning and for the correct settings of the equipment, software, websites, data files and other products and materials.

If the Client does not make available to Xomnia data, documents, equipment, software, materials or employees which Xomnia deems useful, necessary or desirable for the execution of the Agreement, or does not do so in a timely manner or in accordance with the arrangements made, or if the Client otherwise fails to comply with its obligations, Xomnia has the right to suspend the performance of the Agreement in whole or in part, and Xomnia also has the right to charge the costs incurred as a result, including costs of third parties that Xomnia has incurred to execute the Agreement with the Client, according to its usual rates, without prejudice to Xomnia's right to exercise any other legal and/or agreed right.

In case employees of Xomnia perform work at the Client's location, the Client will provide the facilities reasonably desired by those employees free of charge, such as a workspace with computer, data and telecommunication facilities. The workspace and facilities will meet all legal and other applicable requirements regarding working conditions. Client indemnifies Xomnia for claims of third parties, including employees of Xomnia, who in connection with the execution of the Agreement suffer damage which is the result of acts or omissions of Client or of unsafe situations in its organization. Client will make the house and security rules applicable within its

organization known to the employees deployed by Xomnia before the start of the work.

If computer, data or telecommunications facilities, including the Internet, are used in the execution of the Agreement, the Client is responsible for the correct choice of the necessary resources and for the timely and complete availability thereof, except for those facilities under the direct use and management of Xomnia. Xomnia is never liable for damages or costs, including delay costs on the part of Xomnia and/or the Client, due to transmission errors, malfunctions or unavailability of these facilities, unless the Client proves that these damages or costs are the result of intent or deliberate recklessness on the part of Xomnia's management.

1.10 Delivery deadlines

Interim (delivery) dates mentioned by Xomnia or agreed between the Parties are target dates, do not bind Xomnia and are indicative only. Xomnia makes reasonable efforts to observe deadlines (for delivery) and deadlines (for completion) as much as possible.

Xomnia is not bound by any deadline (for delivery or otherwise) or date (for delivery or completion) that can no longer be met due to circumstances beyond its control that occurred after the Agreement was entered into. Nor is Xomnia bound to any deadline (delivery) date or (delivery) date if the Parties have agreed to change the content or scope of the Agreement (additional work, change in specifications, etc.) or to change the approach to the execution of the Agreement.

If exceeding any deadline is imminent, Xomnia and Client will consult to discuss the consequences of exceeding the deadline for further planning.

The mere exceeding of a deadline (for delivery or otherwise) or date mentioned by Xomnia or agreed between the Parties does not put Xomnia in default. In all cases – therefore, even if the Parties have expressly agreed on a final (delivery) term or (completion) date in writing – Xomnia shall not be in default due to a time overrun until after the Client has given it written notice of default in accordance with the terms of Clause 1.11 of these Xomnia General Terms and Conditions, and Xomnia continues to be accountably in default of its obligations after the expiration of the term referred to in Clause 1.11.

1.11 Dissolution and termination of the agreement

Each of the Parties is entitled to terminate the Agreement due to an attributable failure to fulfill the Agreement only if the other Party, in all cases after a written notice of default that is as detailed as possible and in which a period of 10 working days is given to remedy the failure, imputably fails to fulfill essential obligations under the Agreement. The Client's payment obligations and all other obligations to cooperate by the Client or a third party engaged by the Client shall always be considered essential obligations under the Agreement.

If, at the time of dissolution, the Client has already received performance in fulfillment of the Agreement, this performance and the related payment obligation will not be subject to undoing, unless the Client proves that Xomnia is in default with respect to the essential part of that performance. Amounts, including the default interest due thereon, that Xomnia has invoiced before the dissolution in connection with what it has already properly performed or delivered in performance of the Agreement, shall, subject to the provisions of the previous sentence, remain due in full and become immediately payable at the time of dissolution.

The Client shall never be entitled to terminate prematurely a contract for services or an assignment entered into for a definite period.

Each of the Parties may terminate the Agreement in writing with immediate effect, in whole or in part, without notice of default, if the other Party is granted a provisional or non-provisional suspension of payments, if bankruptcy is filed against the other Party, if the other Party's company is liquidated or terminated other than for the purpose of reconstruction or merger of companies, or if the decisive control over the company of Client changes. Because of such termination, Xomnia is never obliged to refund any funds already received or to pay damages.

In case of bankruptcy of the Client, the right to use software, websites and the like made available to the Client expires, and rights of use under all (sub)licenses granted, all of the foregoing by operation of law, without any notice of termination being required from Xomnia.

1.12 Liability of Xomnia

Xomnia's total liability for an attributable failure in the fulfillment of the Agreement, an unlawful act or for any other reason, expressly including any failure in the fulfillment of a guarantee obligation agreed upon with the Client, is limited to compensation for direct damage up to the amount of the price (excluding VAT) stipulated for that Agreement. If the Agreement is primarily a continuing performance agreement with a term of more than one year, the price stipulated for the Agreement shall be set at the total of the fees (excluding VAT) stipulated for one year, namely the year in which the damage was caused. In no event, however, will Xomnia's total liability for direct damages, for whatever reason, exceed €500,000 (five hundred thousand Euros).

Xomnia's total liability for damage caused by death, physical injury or because of material damage to property shall never exceed €1,250,000 (one million two hundred and fifty thousand Euros).

Xomnia's liability for indirect damage, consequential damage, lost profits, lost savings, diminished goodwill, damage due to business stagnation, damage as a result of claims from Clients of the Client, damage related to the use of goods, materials or software of third parties prescribed by the Client, and damage related to the engagement of suppliers prescribed by the Client for Xomnia, is at all times excluded. Xomnia's liability for mutilation, destruction or loss of data or documents is also excluded.

A condition for the creation of any right to compensation is always that the Client reports the damage to Xomnia in writing as soon as possible after it occurs and at the latest within one month. Any claim for damages against Xomnia expires by the mere lapse of twelve months after the claim arose.

The Client indemnifies Xomnia for all third party claims for product liability resulting from a defect in a product or system supplied by the Client to a third party that consisted in part of equipment, software or other materials supplied by Xomnia, unless and to the extent that the Client proves that the damage was caused by that equipment, software or other materials.

1.13 Force majeure

Neither party shall be bound to fulfill any obligation, including any warranty obligation agreed upon between the Parties, if prevented from doing so as a result of force majeure. Force majeure includes: (i) force majeure of Xomnia's suppliers, (ii) failure to properly fulfill obligations of suppliers prescribed by Client to Xomnia, (iii) defectiveness of items, equipment, software or materials of third parties, the use of which is prescribed by Client to Xomnia, (iv) government measures, (v) electricity failure, (vi) failure of Internet, computer network or telecommunication facilities, (vii) war, (viii) occupation, (ix) strike, (x) general transport problems and (xi) the unavailability of one or more members of staff.

If a force majeure situation lasts for more than ninety consecutive days, either Party shall have the right to terminate the Agreement in writing. What has already been performed under the Agreement will in that case be settled for that part of the total sum of the agreed fee(s) for the assignment(s) to Xomnia equal to the passage of time from the date of commencement of the assignment (inclusive) to the date of occurrence of the force majeure situation (inclusive) in relation to the intended total duration (as agreed or forecasted by Xomnia), or, alternatively, to the state of the work (including services or goods already purchased or hired that Xomnia needed to perform the Client's assignment which costs are eligible for full reimbursement), whichever is higher, without the Parties otherwise owing each other anything.

1.14 Modification and additional work

If at the request or with the prior consent of the Client, Xomnia has performed work or other performance that falls outside the content or scope of the agreed work and/or performance, such work or performance shall be compensated by the Client in accordance with the agreed rates and, in the absence thereof, in accordance with

Xomnia's usual rates. Xomnia is not obliged to comply with such a request and may require that a separate written agreement be made for that purpose. Work and performances mentioned above are included in the assignment(s) of these Xomnia General Terms and Conditions.

Client accepts that work or performance referred to in this clause may affect the agreed or expected time of completion of services and the mutual responsibilities of Client and Xomnia. The fact that (the demand for) additional work occurs during the performance of the Agreement shall never be grounds for cancellation or dissolution of the Agreement by the Client.

1.15 Transfer of rights and obligations

Client is not entitled to sell and/or transfer and/or encumber the rights and/or obligations under the Agreement to a third party.

Xomnia is entitled to sell, transfer or encumber its obligations and rights under the Agreement and claims for payment of fees to a third party.

1.16 Applicable law and disputes

The agreements between Xomnia and Client are governed by Dutch law. Applicability of the Vienna Convention on Contracts for the International Sale of Goods is excluded.

Disputes arising as a result of the agreement entered into between Parties and/or as a result of further agreements resulting therefrom, are, after a possible mediation procedure according to the ICT-Mediation Rules of the Foundation for the Settlement of Automation Disputes, settled by arbitration in accordance with the Arbitration Rules of the Foundation for the Settlement of Automation Disputes, with its registered office

in The Hague, the Netherlands, without prejudice to the right of either Party to take conservatory measures. The place of arbitration shall be The Hague.

Parties are free to terminate the ICT-Mediation procedure at any time after a joint initial discussion between mediators and Parties. The provisions of this paragraph do not prevent a Party that deems it necessary from requesting a provision for (arbitral) summary proceedings or taking precautionary legal measures.

Chapter 2: Consultancy services

2.1 Applicability

The Xomnia General Terms and Conditions consist of the General chapter supplemented by one or more specific chapters for each product or service. The provisions listed in this chapter apply in addition to the General chapter when Xomnia consultancy provides services aimed at advising the Client.

2.2 Services

Xomnia will perform consulting and advisory services entirely independently, at its own discretion and not under the direction and supervision of the Client. Xomnia's services will be performed exclusively on Xomnia's usual business days and hours.

The Client may only use the employee provided for other than the agreed work or for work outside the Netherlands if Xomnia has given its prior written consent. Xomnia may, at its sole discretion, withhold the requested consent or impose (financial) conditions on such a change of work or deployment outside the Netherlands.

The Client is not permitted to lend or make available the employee made available to a third party to work under the management and supervision of that third party, unless otherwise agreed in writing.

Xomnia will periodically inform Client in the manner agreed upon in writing about the performance of the work. The Client will notify Xomnia in writing in advance of any circumstances that are or may be of interest to Xomnia, such as the method of reporting, the issues for which the Client wishes attention, prioritization of the Client, availability of resources and personnel of the Client and any special or possibly unknown facts or circumstances for Xomnia. The Client will ensure further distribution and perusal of the information provided by Xomnia within the Client's organization and such information partly on that basis assess and notify Xomnia accordingly.

2.3 Replacement

Xomnia will make reasonable efforts to ensure that the posted employee remains available for work during the duration of the Agreement during the agreed days, except in case of illness or departure. Even if the Agreement is entered into with a view to performance by a specific person, Xomnia is always entitled, after consultation with the Client, to replace this person with one or more other persons with the same qualifications.

The Client is entitled to request replacement of the employee made available:

1. if the employee made available demonstrably does not meet expressly agreed-upon quality requirements and the Client notifies Xomnia of this within three working days after the start of the work in writing, stating reasons, or
2. in case of long-term illness or departure of the posted employee.

Xomnia will give priority attention to the request without delay. Xomnia does not guarantee that replacement will always be possible. If replacement is not or not immediately possible, the Client's claims for further performance of the Agreement lapse, as do all of the Client's claims for non-performance of the Agreement. Client's payment obligations regarding the work performed remain unaffected. Xomnia will never be obliged to reimburse costs of a replacement employee not provided by Xomnia.

2.4 Working hours, working time and working conditions

The working hours, rest periods and working hours of the posted employee are equal to the usual times and duration at Xomnia, unless otherwise agreed upon. Client guarantees that the working and resting times and working hours of the posted employee comply with relevant laws and regulations.

Client shall inform Xomnia as soon as possible of any intended (temporary) closure of its business or organization (including but not limited to vacations or non-national holidays) during the term of the Agreement. If the Client fails to notify Xomnia in a timely manner, the Client shall owe Xomnia the agreed rate for the duration of the closure of its business or organization in full.

Client is bound, towards the posted employee and Xomnia, to comply with relevant legislation and obligations arising from related regulations regarding workplace safety and good working conditions in general.

2.5 Price and payment

If, at the instruction or request of the Client, the posted employee works longer per day than the agreed or usual number of working hours or outside of Xomnia's usual working days, the Client owes the agreed extra hourly rate for these hours or, in the absence of an agreed extra hourly rate, the extra hourly rate usual at Xomnia. If requested, Xomnia will inform Client of the applicable extra hourly rates.

Costs and time of commuting will be charged to the Client after mutual agreement in accordance with Xomnia's usual rules and standards. If requested, Xomnia will inform Client of the rules and standards customary for this purpose.

If agreed in writing between the Parties, Xomnia will accompany each invoice with a specification based on timesheets.

Xomnia is entitled to adjust the rates of the posted employee if his or her function or job description changes. Xomnia will notify the Client in writing no later than thirty days before the effective date.

If the Client does not wish to agree to such an adjustment, the Client is entitled, within fourteen days after the date of notification, to terminate the Agreement in writing by the date on which the adjustment would take effect.

2.6 Hirer's liability, other liability and indemnification

Xomnia is responsible for the timely and complete payment of payroll tax, social security contributions and sales tax due for the posted employee in connection with the agreement with the Client. The Client is required to inform Xomnia immediately, in writing, of the existence and content of all claims from the tax authorities or social

insurance implementation agencies that are due because of the agreement with the Client and to leave the handling of these matters, including making any settlements, entirely to Xomnia.

To this end, Client will provide Xomnia with the necessary powers of attorney, information and cooperation to defend itself, if necessary, on behalf of Client, against these claims.

The use that Client makes of advice and/or consultancy reports issued by Xomnia is always at the Client's risk. The burden of proof that (the manner of) advice and consultancy services do not comply with what has been agreed in writing, or with what may be expected of a reasonably acting and competent contractor, rests entirely with the Client, without prejudice to Xomnia's right to provide evidence to the contrary by all means. Xomnia accepts no liability for the selection of the employee made available or for the results of work.

Client is liable for all damages suffered by the posted employee during or in connection with the work assigned to him. The Client indemnifies Xomnia for all claims by third parties (including but not limited to the employee in question) arising from or related to the work performed by the posted employee under the Agreement. Client indemnifies Xomnia for any liability resulting from injury or death of the posted employee in connection with the performance of the agreement entered into between Xomnia and Client.