

SPARKLE FLOW

LICENSE AGREEMENT

ART.1 LICENSE

1. The Supplier grants the Client a non-transferable, non-sublicensable, non-exclusive and non-pledgeable license to use the computer program "SparkleFlow" and the associated user documentation (hereinafter collectively referred to as "software").
2. The Supplier will deliver or make the software available to the Client no later than the first day of the calendar month after receipt of the user fee payable in the order confirmation.
3. The Supplier is entitled, in the context of marketing activities to be developed by it, to state in general terms that the Client uses the services of the Supplier.

ART.2 DURATION AND TERMINATION

1. This agreement commences on the date of the order confirmation and is entered into for the duration of one (1) year. After expiry of the agreed term, the agreement will be tacitly renewed for a subsequent period of one (1) year, unless one of the parties has terminated the agreement in writing. Both parties are entitled to terminate the agreement by the end date of the agreement, subject to a notice period of one (1) month.
2. Termination is effected by registered letter or bailiff's writ.

ART.3 USE RESTRICTIONS

1. During the term of this agreement, the Client is entitled to:
 - a. to use the software on hardware that meets the agreed minimum specifications;
 - b. keep or make one (1) back-up copy of the software, exclusively for temporary use and / or for security purposes;
 - c. to use the software in one (1) network environment, on the understanding that only the number of users agreed with the Client can use the software.
2. During the term of this agreement, the Client is not permitted to:
 - a. to use the software with regard to more users than the agreed number of users specified in the order confirmation;
 - b. to give the software to third parties and / or to use the software on behalf of third parties;
 - c. to reproduce and / or publish the software, except for personal use within the organization of the Client;
 - d. to reconstruct the source code of the software by means of reverse engineering;
 - e. to split or separate the software, including all components, applications, applications, programs, etc. belonging to the software, in any way whatsoever.

ART.4 COMPENSATION, PAYMENT AND PRICE ADJUSTMENT

1. The Client owes the Supplier a fee for the right of use of the software referred to in Article 1.1 (hereinafter referred to as "right of use fee"). The right of use fee for the Client during the first contract year with the Supplier is further specified in the order confirmation.
2. The amount of the right of use fee depends, among other things, on the number of applications managed by the software, as well as the number of users. The number of applications managed by the software is provided per hundred, whereby the number of applications managed by the software is rounded up each time (for example: 101 applications becomes 200 applications).
3. At the start of this agreement, the amount of the applications managed by the software and the number of agreed users are specified in the order confirmation.

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4. After the expiry of a contract year, the number of users can be changed by the Client, whereby the change must always be communicated by the Client to the Supplier in writing no later than one (1) month before the end of the relevant contract period.
5. The Supplier will invoice the right of use fee owed annually to the Client before the start of an (extended) contract year.
6. The right of use fee is payable in advance and must be paid to the Supplier no later than thirty (30) days after the invoice date.
7. Upon termination of this agreement, the Supplier is not obliged to refund amounts already received, even if these relate to a period after the termination. Upon termination of this agreement, amounts already owed by the Client, regardless of whether or not they have been invoiced at the time of termination, remain due.
8. The supplier is entitled to unilaterally change the user charge on 1 January of each year. The Supplier will inform the Customer in writing of the new amounts no later than two (2) months before the effective date of the price change. The standard to be applied for the Supplier as referred to in art. 3.5 of the General Terms and Conditions, is that the price change will take place on the basis of business and commercial motives, to be assessed by the Supplier.

ART.5 WARRANTY AND MAINTENANCE

1. The Client is entitled to a guarantee from the Supplier as described in art. 34 of the General Terms and Conditions.
2. The supplier will maintain and support the software in the manner as set out in this agreement and the General Terms and Conditions. The maintenance obligations of the Supplier include exclusively:
 - a. the repair of errors in the software in accordance with art. 41 General Terms and Conditions;
 - b. making new versions of the software available in accordance with art. 42 General Terms and Conditions;and
 - c. providing support in accordance with art. 43 of the General Terms and Conditions.
3. The Client will immediately report any errors found in the software to the Supplier via support@sparkleflow.com.
4. At the request of the Client, the Supplier can support the implementation of new versions of the software made available as referred to in Article 5, paragraph 2, sub c. These services to be provided by the Supplier will be charged to the Client on the basis of subsequent calculation at the Supplier's usual hourly rate.

ART.6 FINE

1. In the event of a violation by the Customer of articles 3, 4, paragraph 3 and / or other essential obligations resting on the Customer under this agreement, the Customer will forfeit to the Supplier an immediately payable and non-deductible fine of € 10,000 per violation, as well as an immediately due and payable fine. and non-deductible fine of € 1,000 for each day that the violation continues, without prejudice to the other rights of the Supplier, such as claiming compensation, insofar as the damage exceeds the penalty amount. The rolling fine of € 1,000 for each day that the violation continues, will not commence until the Supplier has notified the Customer in writing of the violation and is furthermore capped at a total amount of € 10,000 per violation.
2. The customer is aware of the aforementioned consequences of violation of the aforementioned articles, whereby not only a fine applies for each violation, but also a maximum progressive fine. This penalty clause has been well thought out and deliberately established and the parties consider any disproportion between the penalty and the contractual damage to be justified in view of the incentive function of the penalty clause and the interests of the parties.

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ART.7 FINAL PROVISIONS

1. Insofar as not deviated from in this agreement, the General Terms and Conditions of the Supplier apply to this agreement, which are stated on the website of the Supplier. In particular, the provisions in chapters 1 (General), 2 (Services), 4 (Software) and 6 (Maintenance of software and support) always apply to this agreement.
2. If this agreement is in conflict with or inconsistent with the provisions in a translation of this agreement on any part, the provisions in the Dutch version of this agreement will prevail.
3. If one or more provisions of this agreement is legally declared non-binding or, for whatever reason, should otherwise prove to be non-binding, this will not affect the validity and force of the other provisions of this agreement. In such a case, the parties will enter into consultations in order to replace the non-binding provisions with provisions that are binding but that deviate as little as possible from the provisions deemed non-binding - also in view of the purpose and scope of those provisions and of this agreement.
4. The documents mentioned in this agreement are an integral part of this agreement.

DEVIATIONS FROM GENERAL TERMS AND CONDITIONS

1. In the interests of legal certainty, the parties consider it particularly important that there is no ambiguity as to which law governs this agreement. In that context, the parties have made an explicit choice for the applicability of (exclusively) Dutch law, so that this agreement is governed by (exclusively) Dutch law. Applicability of the Vienna Sales Convention 1980 is excluded.
2. In the context of legal certainty, the parties also consider it particularly important that there is no ambiguity as to which court is competent to apply Dutch law. In that context, the parties have made an explicit choice before a Dutch court, so that all disputes arising as a result of this agreement and / or agreements arising from this agreement will be submitted exclusively to the competent court of the Oost-Brabant District Court in the Netherlands. .