General Terms and Conditions

General Terms and Conditions Nsecure

1. Definitions

The following definitions apply to these general terms and conditions of sale ("terms and conditions"): Nsecure: the private limited liability company Nsecure BV, registered in Barendrecht;

client: any person to whom Nsecure makes or has made an offer to conclude an agreement and/or any person with whom Nsecure concludes or has concluded an agreement.
person: natural or legal person or unincorporated company.
parties: Nsecure and the client.
agreement: any agreement between parties covering the supply of products and/or services and/or software by Nsecure to the client and/or any other performance undertaken by Nsecure on behalf of the client, any amendment or addition to this agreement, and all factual and legal acts carried out in preparation and execution of this agreement, including offers made by Nsecure.

2. General

2.1 These terms and conditions apply to all agreements.
2.2 The applicability of any terms and conditions that the client may refer to in any way, or that may be included in any correspondence issued by the client, in any form whatsoever, is explicitly rejected.
2.3 Stipulations that deviate from these terms and conditions and/or the agreement are only binding if recorded in writing and signed by the parties, and only apply to the case concerned. The client is not permitted to derive any rights in respect of future agreements from any deviating stipulations as here intended.
2.4 All stipulations of these terms and conditions are made not only on behalf of Nsecure, but also on behalf of its directors and shareholders, all persons employed by Nsecure, all persons engaged by Nsecure for the implementation of an agreement, and all persons for whose actions or negligence Nsecure may be held liable.

2.5 If Nsecure does not require strict adherence to these terms and conditions at any time, this does not affect the entitlement of Nsecure to require strict adherence to these terms and conditions in future situations, whether or not of a similar nature.
2.6 Nsecure is entitled to engage third parties to implement the agreement at any time.
2.7 If Nsecure concludes an agreement with two or more persons, these persons are at all times jointly and severally liable for any obligations that the client has a result of the agreement.
2.8 If these terms and conditions are prepared in a language other than Dutch, and a difference of opinion arises about the contents or scope of the terms and conditions, the Dutch text shall prevail.
2.9 If part of the agreement or these terms and conditions is declared invalid or annullable, this shall not affect the applicability of the remaining part of the agreement and these terms and conditions. In accordance with article 3:42 of the Dutch Civil Code, that which the parties would have agreed had they been aware of the invalidity or annullability shall then apply in place of the invalid or annullable part..

3. Offers; conclusion and duration of agreement

3.1 All offers made by Nsecure are without obligation. Nsecure reserves the right to withdraw its offer within 5 days of reception of acceptance. Any acceptance by the client that deviates from Nsecure's offer, whether or not in minor respects, shall always be deemed a rejection of this offer and a new offer from the client. This new offer shall only result in an agreement if Nsecure confirms this in writing or electronically.
3.2 All numbers and dimensions contained in offers by Nsecure or agreements and in the annexes are approximate only.
3.3 An agreement becomes effective at the moment that (a) 5 working days have elapsed since Nsecure received the acceptance by the client and Nsecure has not withdrawn its offer during this period, or (b) Nsecure has confirmed the agreement in writing or electronically, or (c) Nsecure commences implementation of the agreement.
3.4 Unless otherwise agreed in writing or unless the nature of the agreement dictates
otherwise, agreements are deemed to be entered into for an indefinite period. The parties have the right to terminate an agreement for an indefinite period at any time with a notice period of 3 (three) months. Notice of termination of the agreement must always be made in writing.

4. Transfer of rights and obligations

4.1 Nsecure is entitled at all times to transfer its rights and obligations arising from the agreement to third parties.
4.2 The client is not entitled to transfer the rights and obligations arising from the agreement to third parties without the prior written permission of Nsecure. Such permission may be subject to conditions.

5. Additional work

5.1 If requested by the client, Nsecure shall implement amendments to the commissioned work, provided that Nsecure considers the implementation of these amendments to be feasible. Nsecure may charge an additional fee for such amendments. If the parties are unable to reach agreement about the additional fee, Nsecure shall not be obliged to implement the specified amendments.

5.2 Furthermore, Nsecure has the right to charge for additional work required during the implementation of the activities as a result of incorrect information supplied by the client about the nature of the agreed supply of products and/or services and/or software, associated activities, the co-operation to be provided by the client, or the failure of the client to provide these.

6. Prices and fees

6.1 Unless the parties agree otherwise in writing, prices and fees are specified in Euros, exclusive of value added tax and other taxes and charges.

6.2 The prices and fees are based on factors affecting the cost price at the time the agreement is concluded, including but not limited to the costs of materials, licenses, wages, employer's liabilities, social security and other working conditions and exchange rates. If, following the conclusion of the agreement but before the supply of the products and/or services and/or software, a change arises in these costs that Nsecure cannot reasonably influence, Nsecure has the right to charge the resulting costs to the client.

6.3 The prices and fees shall be amended annually from 1 January based on the change in the price index figure for monthly CAO (Collective Labour Agreement) wages, including special remuneration for private companies, specifically SBI 27-35 Metal/Electrotechnical industry (2000 = 100), published by Statistics Netherlands (Centraal Bureau voor de Statistiek, CBS). The amended prices and fees shall be calculated in accordance with the following formula: the amended prices and fees are equal to the applicable prices and fees on the date of the change, multiplied by the index figure for the calendar month four months before the calendar month in which the prices and fees are amended, divided by the index figure for the calendar month sixteen months before the calendar month in which the prices and fees are amended. This amendment shall not take place if it would result in a reduction in the previouslyapplicable prices and fees, without prejudice to the entitlement of Nsecure to apply an amendment from 1 January of the year following that in which no amendment is made, and subsequently from 1 January of each year, on the basis of the aforementioned formula.

7. Payment

7.1 Invoices issued by Nsecure must be paid in the manner specified by Nsecure within 30 (thirty) days of the invoice date, or at an earlier or later time as agreed in writing. Payment must always be made unconditionally, without deduction, retention, offset or suspension, for any reason whatsoever. The client shall not seize its own assets ("eigenbeslag" in Dutch law).

7.2 Any complaints related to an invoice issued by Nsecure must be submitted to Nsecure in writing and accompanied by an explanation within 7 days of the invoice date. If this does not occur, the client shall be considered to have irrevocably accepted the invoice as correct.

7.3 Without a notice of default being required, the client shall be in default if the payment term is exceeded. If the client is in default in respect of any payment, all claims by Nsecure against the client are due immediately and in full.

7.4 While in default, the client is liable for default interest of 1% of the outstanding claims per month or part thereof.

7.5 In case of extrajudicial collection, the client is liable to Nsecure for the actual costs of collection incurred by Nsecure, in addition to the principle sum and default interest. The extrajudicial collection costs are at least 15% of the first €5,000 (with a minimum of €125), 10% of the sum above this up to €10,000, 8% of the sum above this up to €20,000, 5% of the sum above this up to €60,000 and 3% of the sum above €60,000.

7.6 The judicial costs are not limited to the costs of the proceedings, but are wholly for the client's account if the client is found to be wholly or largely at fault.

7.7 Following a request in this regard from Nsecure, the client shall make a full or partial advance payment, or, at the client's expense, provide sufficient certainty that the client is able to fulfil its obligations. Sufficient certainty is understood to include a bank guarantee payable at the first request of Nsecure, issued by a first-class Dutch bank, amounting to 110% of the amounts owed by the client (100% of these amounts, with a supplement of 10% for interest).

7.8 Nsecure is entitled at all times to deduct any amounts owed to Nsecure by the client or any person affiliated with the client ("the client c.s") for any reason whatsoever from any claims that the client c.s. may have against Nsecure or any persons affiliated with Nsecure ("Nsecure c.s."). The entitlement to deduction as intended here shall also arise if payment of the claims is not yet enforceable and the performance for which Nsecure c.s. has a claim does not cover its debts.

8. Delivery time, delivery

8.1 The delivery times specified by Nsecure are always approximate, and shall never be deemed to be strict deadlines. Failure to honour these delivery times shall not give rise to any entitlement to compensation for damages, nor shall the client have the right to terminate or dissolve the agreement. Nsecure is not bound by any agreement between the client and suppliers/service providers of Nsecure, including but not limited to agreements and/or commitments concerning delivery times.

8.2 Unless otherwise agreed in writing, products shall be supplied from Nsecure's warehouse ("ex works", in accordance with the most recent version of the Incoterms). The risk shall transfer to the client at the moment that Nsecure makes the products in its warehouse available to the client. Nsecure is entitled, but never obliged, to supply the products in partial deliveries, and to invoice each part separately. The client is obliged to collect the products within 5 (five) days of the time at which they are made available. If the client does not collect the products, or fails to do so in a timely manner, then the client shall be in default without a notice of default being required, and Nsecure shall be entitled to dissolve the agreement and to claim damages from the client, without prejudice to Nsecure's other rights.

8.3 In situations where Nsecure develops software specially for the client (including updates), Nsecure shall supply the software in accordance with the specifications recorded in writing and, if agreed in writing, shall install and implement the software.

8.4 The moment at which the agreed services are delivered in full or, in the case of a continuing performance agreement in which services are provided on a regular basis, each moment at which that regular service is complete, shall be deemed to be the moment of delivery of that service.

9. Retention of title

9.1 Nsecure retains ownership of the products supplied until the price for these is paid in full. This retention of title also applies to other claims stated in article 3:92 paragraph 2 of the Dutch Civil Code that Nsecure has obtained or will obtain against the client.

9.2 Until such time as ownership of the products has been transferred to the client, the client is not entitled to pledge or grant any third party rights to the products.

9.3 The client undertakes not to cede or pledge any claims that the client obtains against its customers without the prior written permission of Nsecure. This prohibition against ceding or pledging applies in respect of both contract law and property law. Furthermore, at the first request of Nsecure, the client undertakes to pledge any claims that the client has against its customers to Nsecure on the basis of article 3:239 of the Dutch Civil code as an additional security for the performance of its obligations to Nsecure, of whatever nature.

9.4 If the client fails to fulfil one or more of its obligations, of if Nsecure has reasonable cause to suspect that the client will fail to do so, Nsecure is entitled to recover (or have recovered) the products supplied under retention of title, at the client's expense. The client shall lend all necessary assistance in this regard. The client waives any rights of retention in respect of the products, and shall not seize the products. Once the products have been recovered, the client shall be credited for the market value, which shall under no circumstances exceed the original price, subject to deduction of the costs associated with recovering the product and other damage incurred by Nsecure.

10. Conformity, investigation and complaints

10.1 Except to the extent to which the client may claim additional rights in respect of a factory warranty applying to any supplied products, the following stipulations apply to conformity, investigation and complaints.

10.2 Nsecure guarantees only that the supplied products are suitable for normal use in accordance with the product description or instructions on the date of delivery. Nsecure cannot guarantee that the products are suitable for special use, unless the client informed Nsecure about the intended special use at the time the agreement was concluded, and Nsecure has guaranteed in writing that the products are also suitable for this special use.

10.3 Following delivery of the product, the client is obliged to immediately and carefully inspect the products, or to have them inspected, to confirm that they comply with the agreement in all respects.

10.4 Complaints about visible defects must be reported to Nsecure immediately and confirmed in writing within 24 hours, accompanied by a detailed description of the nature of the defect. Complaints about non-visible defects must be reported to Nsecure in writing, accompanied by a detailed description of the nature of the defect, within 2 days of their discovery or the moment at which they could reasonably be expected to have been discovered, and no later than 3 (three) months following delivery. In the event that the stated complaint periods are exceeded, the client shall no longer be entitled to claim that the products do not meet the terms of the agreement.

10.5 Complaints about defects that are minor, customary in the sector or technically unavoidable are inadmissible. Complaints that are wholly or partly the result of the following are also inadmissible: careless, incorrect or inexpert use, use other than normal use, use in violation of the documentation, external causes, alterations and additions to the products made by or on behalf of the client.

10.6 The client shall provide all co-operation necessary for the investigation of the complaint. If the client fails to co-operate, or if the investigation is not possible or no longer possible, the complaint shall be deemed inadmissible.

10.7 If the client's complaint is admissible, taking into consideration the terms of this article, Nsecure shall initiate one of the following remedies, following consultation with the client: supplying missing items, repair of the products, replacement of the products with other similar, but not necessarily identical products, or alteration of the price. Nsecure shall have no further obligations or liability. The approval of Nsecure is required for the complete or partial dissolution of the agreement, including a reduction in the price.

10.8 The client is obliged to take care of the products as a prudent debtor at all times. The client is not entitled to return the products before Nsecure has agreed to this in writing. If Nsecure stores the products in the event of a return, this is at the client's expense and risk. This storage can at no time be interpreted as an acceptance or approval of the return.

10.9 If the client fails to comply with the rules specified in this article and Nsecure nevertheless accepts a complaint, Nsecure's efforts are to be interpreted as goodwill, without the acceptance of any obligation or liability.

10.10 Any legal action must be taken within 1 year of timely notification of a complaint at the risk of forfeiting any right to compensation.

11. Suspension, dissolution

11.1 Without prejudice to Nsecure's statutory rights and/or other rights arising from the agreement and/or these terms and conditions, Nsecure is authorised to suspend compliance with its obligations or, without the necessity of notice of default or judicial intervention, to wholly or partially dissolve the agreement by means of a written notification if: (a) the client fails to fulfil an obligation arising from the agreement and/or these terms and conditions, or fails to do so correctly or in a timely manner, and/or (b) Nsecure has valid grounds to suspect that the client will fail to comply with one or more of its obligations, and/or (c) the client is declared insolvent, the client's insolvency is applied for, the client is (temporarily or permanently) granted a suspension of payment or if this is requested, statutory debt restructuring is granted or has been requested in respect of the client, the client's business is liquidated or the client's goods are subject to seizure under foreclosure or seizure before judgement, and this is not lifted within a month of the date of seizure.
11.2 If the client is in default under the law, the agreement and these terms and conditions after notice of default has been served, Nsecure shall not proceed to full or partial dissolution of the agreement in the circumstance described in clause 1 under (a) of this article unless a written reminder is sent to the client, which shall impose a reasonable term for compliance, and payment is not made within this term.
11.3 In the event of a full or partial dissolution of the agreement by Nsecure, Nsecure is not liable for any payment for damages, and all Nsecure's claims against the client shall be payable immediately and in full.

12. Confidential information

12.1 The client is aware that the supplied products, services and software contain confidential information and commercial secrets of Nsecure or its licensors (the "confidential material"). The client undertakes to maintain the confidentiality of the confidential material, not to make it known to or available for use by third parties, and only to use it for the purpose for which it is made available. Third parties also include all persons working for the client's organisation who do not of necessity need to use the products, services and software. Information must always be considered confidential if Nsecure does not expressly state that this is not the case.
12.2 Following termination of the agreement between the parties, regardless of the reason, the client is obliged to immediately cease using the confidential material.

13. Co-operation client

13.1 At the first request of Nsecure, the client shall provide all co-operation required or requested by Nsecure to allow Nsecure to deliver the agreed performance.

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13.2 If the use of products, services and/or software supplied by Nsecure requires the use of third-party software and/or equipment, the client is responsible for the purchase of this software and/or equipment, whether or not in consultation with Nsecure, unless it is agreed in writing that Nsecure is responsible for this. Nsecure does not guarantee that the products, services and/or software supplied by Nsecure are suitable for use in combination with (versions of) hardware or software other than those specified by Nsecure.

13.3 If information required for the implementation of the agreement is not supplied to Nsecure, or is not supplied in a timely manner or in accordance with the agreement, or if the client otherwise fails to comply with its obligations, Nsecure is always entitled to suspend the implementation of the agreement and is entitled to charge the resulting costs in line with Nsecure's regular fees

14. Maintenance

14.1 If a maintenance agreement is concluded for the products and/or software supplied by Nsecure, or if maintenance is included in the usage fee for the software, the client shall submit a detailed report of any observed defects in the products and/or software to Nsecure in accordance with the standard Nsecure procedures, which shall be communicated to the client by Nsecure.

14.2 Nsecure does not guarantee that the software supplied by Nsecure will work without interruption or defects, or that all defects will be resolved.

14.3 Nsecure may charge its standard fees and any costs incurred by Nsecure for repair in the event of incorrect use, or inexpert use, or other causes that cannot be attributed to Nsecure, or if the software or equipment are altered by parties other than Nsecure. Recovery of corrupted or lost data is not covered by maintenance.

14.4 Once Nsecure has supplied new versions of existing software to the client, all obligations to maintain prior versions shall expire.

15. Help desk

If it has been agreed in writing that Nsecure is to supply help desk services, Nsecure shall endeavour to respond to complaints and/or problems submitted by telephone or e-mail and to support the client in resolving these during office hours (Monday to Friday from 8.30 a.m. to 5 p.m., except customary Dutch public holidays).

16. Intellectual property rights

16.1 All intellectual property rights to software, websites, data files, equipment or other materials such as analyses, designs, documentation, reports, quotations and preparatory materials developed based on the agreement or made available to the client remain exclusively with Nsecure, its licensors or suppliers.

16.2 If Nsecure is prepared to transfer an intellectual property right, such an obligation may only be entered into explicitly and in writing. If the parties agree in writing that an intellectual property right in respect of software, websites, data files, equipment or other materials developed specifically for the client is to transfer to the client, this does not affect the entitlement or ability of Nsecure to use components, general principles, ideas, designs, algorithms, documentation, works, programming languages, protocols, standards and the like connected to that development for other purposes, without restriction, and/or to make use of these, either for Nsecure itself of for third parties. Furthermore, the transfer of an intellectual property right does not affect the entitlement of Nsecure to carry out development of a similar nature to, or derived from, that carried out on behalf of the client, either for Nsecure itself or a third party.

16.3 Subject to the condition that the client immediately informs Nsecure of any declaration of liability against the client or legal action based on the claim that products, services and/or software supplied by Nsecure violate an intellectual property right valid in the Netherlands, Nsecure shall (at its discretion) mount a defence and take responsibility for the ensuing costs. This indemnification is not valid if the client has made changes to the products, services and/or software supplied by Nsecure, or has had such changes made, or uses these in a manner other than that specified by Nsecure.

16.4 Without prejudice to the stipulations of article 23 of these terms and conditions, Nsecure is not liable to the client for (damage arising from) violations of intellectual property rights, other than in the manner described in this article.

16.5 The client shall indemnify Nsecure against claims by third parties stating that the presence or use by the client of products (including data and collections) supplied to the client by Nsecure violate the rights of those third parties. In such an event, the client shall reimburse Nsecure for all costs arising directly or indirectly as a result of such a claim, including the costs of legal assistance.

17. Personal data and data processing

17.1 The client guarantees that it has complied with the statutory obligations in respect of any personal data collected and processed by the client. The client shall indemnify Nsecure against claims by third parties stating that Nsecure holds, publishes or has published personal data in an unauthorised manner, and/or otherwise processes or has processed such data in an unauthorised manner.

17.2 The client is exclusively responsible for any data processed during the use of products, services and/or software supplied by Nsecure. The client guarantees to Nsecure that the contents, the use and/or the processing of the data is not unauthorised and does not violate any rights of a third party. The client shall indemnify Nsecure against any legal action by third parties, for any reason whatsoever, related to this data or the implementation of the agreement.

17.3 If Nsecure is obliged to provide a form of information security on the basis of the agreement, this security shall comply with the specifications for security as agreed between the parties in writing. Nsecure can under no circumstances guarantee that the information security will be effective under all circumstances. If the agreement does not explicitly specify a security measure, the security shall be of such a level that, taking account of the state of technology, the sensitivity of the data and the costs associated with providing the security are not unreasonable.

17.4 If use is made of computer, data or telecommunications facilities during the implementation of the agreement or for other reasons, Nsecure is entitled to assign access or identification codes to the client. Nsecure is entitled to alter the assigned access or identification codes. The client shall treat the access and identification codes confidentially and with care, and shall only make them available to authorised employees. Nsecure shall under no circumstances be liable for damages or costs resulting from the use or misuse of the access or identification codes, unless such misuse is possible as a direct result of intent or deliberate recklessness on the part of Nsecure or of executives who form part of the management.

18. Software licensing

18.1 Nsecure grants the client a non-exclusive, non-transferable and non-sublicensable license for the use of software developed by Nsecure or third parties and made available to the client within the client's own company or organisation on a single processing unit, subject to the understanding that, in respect of software developed by third parties, Nsecure only provides a license for use to the extent that Nsecure is entitled to issue (sub)licenses for the relevant software. The client shall not make the software available to third parties and/or allow it to be used without the express written permission of Nsecure.

18.2 The client shall refrain from taking actions aimed at decompilation, disassembly and/or "reverse engineering" of any nature whatsoever in respect of the software developed by Nsecure or third parties. The client is obliged, if the client wishes to integrate software developed by Nsecure with other software, to request the required information from Nsecure. Nsecure is prepared to issue such information to the client under reasonable conditions.

18.3 Unless agreed otherwise in writing and except for the exceptions explicitly stipulated by law, the client is not entitled to modify the software wholly or in part without the prior written permission of Nsecure. Nsecure is entitled to withhold permission at any time or to attach conditions to such permission, including conditions concerning the method and quality of the modifications desired by the client. The client bears all risks associated with the modifications made by the client, or by third parties on behalf of the client, regardless of whether Nsecure has granted permission for these.

18.4 Unless agreed otherwise in writing, the obligation of Nsecure to make the software available and the client's license to use the software extend only to the object code of the software. The client's license to use the software does not extend to the source code of the software. The source code of the software and the technical documentation created during the development of the software shall under no circumstances be made available to the client, even if the client is prepared to pay financial compensation for this. Unless otherwise agreed in writing, Nsecure's obligations do not extend to maintaining the software and/or providing support to users of the software.

18.5 The client shall under no circumstances remove (or have removed) or subvert (or have subverted) functions intended to secure the software.

18.6 Unless otherwise agreed in writing, the client may only use the software in and for the client's own business or organisation, and only for the intended purpose. Unless otherwise agreed in writing, the client shall not use the software to process data for third parties, such as "time-sharing", "application service provision", "software as a service" or "outsourcing".

18.7 The license as described in this article shall cease immediately at the moment that the client or a third party submits a request for suspension of payment or insolvency in respect of the client, the client is granted suspension of payment, or the client is declared insolvent.

19. Application Service Provision, SaaS and computer service

19.1 If it has been agreed that Nsecure is to provide services in areas such as Application Service Provision (ASP), Software as a Service (SaaS) and/or computer service, the following applies in addition to the other conditions.

19.2 Unless otherwise agreed in writing, the client is responsible for the management, including monitoring of settings, the use of the service and the manner in which the results of the service are used. The client is also responsible for instructing users and for the use by users, regardless of whether an employer–employee relationship exists between the client and those users.

19.3 In the absence of explicit agreements in this regard, the client is responsible for installing, setting up, parameterising and tuning the required (utility) software, and if necessary adjusting the associated equipment, other (utility) software and user environment to achieve the interoperability desired by the client.

19.4 The client is obliged to treat the login details provided by Nsecure to obtain access to the portal with care. The login details are not transferable, and must not be used outside the client's organisation. The client is obliged to treat the login details as strictly confidential, and must store them in a safe place. The client is liable for all use that is made of the client's login details.

19.5 Nsecure is entitled to block the client's login details if Nsecure believes this to be necessary, for example for security reasons, or as a result of unauthorised use, (suspected) fraud or if the client fails to comply with its payment obligations or other obligations.

20. Hosting computer capacity and data lines

20.1 If it has been agreed that Nsecure is to supply services in the area of hosting computer capacity and data lines, the following applies in addition to the other conditions.

20.2 The client is prohibited from using the hosting service and data lines for the storage of files that violate relevant legislation and regulations, or that violate the rights/copyright of third parties. The client is obliged to use the hosting service and data lines in a normal manner, which is understood to mean that activities such as spamming, e-mail defamation and hacking (and other comparable actions) are not permitted, nor the processing, storage, use or transmission of offensive material, (child) pornography, or insulting, libellous, defamatory, inflammatory, violent and/or racist material.

20.3 Nsecure shall make reasonable efforts to make the data lines and computer capacity agreed with the client available to the client. Nsecure gives no guarantee as to the timeliness, availability and/or accessibility of the data lines.

21. Force majeure

21.1 Force majeure ("non-attributable shortcomings") is understood to mean: any circumstances not subjectively attributable to Nsecure that make it impossible or impractical for Nsecure to comply with its obligations in full or in part, including – but expressly not limited to – force majeure and/or malpractice ("attributable shortcomings") and/or unauthorised actions of third parties connected with the implementation of the agreement, illness of staff, strikes, fire, theft, prohibitions on import/export/transit, transport problems, computer defects and defects in (communication) networks, abnormal weather conditions, frost, storm damage and other damage caused by natural forces, nuclear disasters, war and/or the threat of war.

21.2 In the event of force majeure, Nsecure is entitled to suspend compliance with its obligations in full or in part, and the client shall not be entitled to demand compliance or payment of damages.

21.3 If the force majeure period lasts longer than 3 (months), either of the parties shall be entitled to dissolve the agreement in full or in part without being liable for the payment of damages, on the understanding that if Nsecure has partly complied with its obligations before or after the occurrence of the force majeure, Nsecure is always entitled to a proportional share of the price and/or fee.

21.4 Nsecure is also entitled to invoke force majeure if this arises after Nsecure should have complied with its obligations.

22. Liability and indemnification

22.1 Without prejudice to the stipulations in the above article, the following arrangements apply to the liability of Nsecure for damage suffered by the client and/or third parties and the indemnification of Nsecure by the client.

22.2 The total liability of Nsecure for any reason is limited to the amount covered by its liability insurance policy for the incident in question, plus the insurance policy excess not covered by the insurer under the terms of the policy. If for any reason whatsoever no sum is paid out pursuant to this insurance, the total liability of Nsecure for any reason whatsoever for each incident, with a series of related incidents being considered as a single incident, is limited to the net invoice value of the products, services and/or software in question, i.e. the prices and fees exclusive of value added tax and other taxes and charges and exclusive of costs, with a maximum of €100,000 (one hundred thousand Euros). If the agreement is a continuing performance agreement with a term of more than 1 year, the above net invoice amount shall be set at the total of the prices and fees exclusive of value added tax and other taxes and charges and exclusive of costs for a period of 1 year.

22.3 Nsecure is only liable for payment of damages suffered by persons and to goods described in the policy terms and conditions of the liability insurance. This means that Nsecure is not liable for – and the client is obliged to take out insurance against – indirect damage, consequential damage, trading loss, loss due to business stagnation, lost profit, missed savings, damage as a result of claims by customers of the client, loss of clients, reduced goodwill, damage to reputation and damage resulting from corruption, destruction or loss of data or documents.

22.4 Without prejudice to the stipulations of the previous clauses in this article, Nsecure is not liable for damage arising due to the use of products, services and software of third parties, including to the extent that this use is not stipulated to Nsecure by the client, and Nsecure is furthermore not liable for shortcomings and faults of others that Nsecure has engaged for the implementation of the agreement, including to the extent that this engagement has not taken place on the instructions of the client. Under no circumstances shall Nsecure's liability exceed that of the stated third parties towards Nsecure. The client authorises Nsecure to accept any limitations to liability required by third parties on the client's behalf.

22.5 Under no circumstances shall Nsecure be liable for damage arising or related to modifications, activities etc. carried out on products, services and/or software supplied by Nsecure if these are made or carried out in violation of the agreement and/or these terms and conditions.

22.6 To the extent that compliance by Nsecure is not permanently impossible, Nsecure is only liable for an attributable shortcoming in the fulfilment of an obligation if the client serves Nsecure with a notice of default in writing without delay, including a detailed description of the nature of the shortcoming and a reasonable term in which to remedy the shortcoming, and the attributable shortcoming in the fulfilment of Nsecure's obligations continues after the expiry of this term.

22.7 The existence of any entitlement to payment for damages is always conditional on the client reporting this in writing to Nsecure without delay, and at the latest within 14 days of the client becoming aware of the damage, or the moment at which the client should reasonably have been aware of the damage.

22.8 Any legal action must be taken within 1 of after timely notification of the damage at the risk of forfeiting any right to compensation

22.9 The client is obliged to indemnify Nsecure against any form of liability that third parties may claim against Nsecure in relation to the products, services and/or software supplied or to be supplied by Nsecure. The client is obliged to pay the reasonable costs of defence against claims by third parties against Nsecure.

22.10 Nsecure shall not invoke a limitation to its liability, and the client shall not be obliged to indemnify Nsecure, to the extent that the damage is the direct result of intent or deliberate recklessness on the part of Nsecure or of executives who form part of the management.

22.11 The above stipulation shall not apply if mandatory legal provisions prevent it.

23. Applicable law and competent court

23.1 The legal relationship between the parties is governed by Dutch law.

23.2 Except to the extent that mandatory legal provisions dictate otherwise, all disputes that may arise between the parties as a result of or in connection with the agreement and/or these terms and conditions shall be settled in the first instance exclusively by the District Court of Rotterdam, without prejudice to the entitlement of Nsecure to present a dispute to any other competent court.

24. Amendments to terms and conditions

Nsecure reserves the right to amend these terms and conditions at any time. Such amendments shall take effect 3 (three) months following the date of the message in which Nsecure announces the amendments to the client. The amended terms and conditions shall apply to agreements between Nsecure and the client concluded after the stated amendments. Unless otherwise agreed in writing, the new terms and conditions shall also apply to current agreements, unless the client, within 14 (fourteen) days of the announcement of the proposed amendments to the terms and conditions, informs Nsecure in writing of the client's wish to terminate the relevant agreement, in which case the notice period stated in article 3.4 of these terms and conditions shall apply. The existing terms and conditions shall continue to apply during the notice period.

General terms and conditions Nsecure , v.december 2014