**Article 1. Definitions**

1.1 In these General Terms and Conditions, the following definitions shall apply:

**Acceptance, Acceptance Certificate, Acceptance Test:**

acceptance by the Customer of the Products as having been delivered in accordance with the Agreement; written notice of Acceptance, provided to the Customer by SECUREDD; the test, described in the Specifications, to be carried out to demonstrate that the Products substantially meet the Technical Requirements of the Customer; If test specifications have not been provided by the Customer, commencement of consumption of the Product shall constitute acceptance.

SECUREDD:

SECUREDD is the trade name of SSLPost Europe B.V. with its registered office in Gouda, the Netherlands, registered with the Chamber of Commerce under number 29045335.

**Consumer:**

a natural person not acting in the exercise of a profession, business or craft who purchases Products or Services for private use (referred to in these Terms and Conditions as: the Customer, who is also a Consumer);

**Services**

the various services provided by SECUREDD to the Customer – such as maintenance, on-site support, telephone helpdesk, external support, consultancy, project management, training and installation services – if and to the extent that these services are agreed and set out in the Agreement;

**Intellectual Property Rights:**

patents, designs, trademarks, authors', database and personality rights, rights in topographies, trade names and all related rights, including rights that may be derived from applications to register such rights, (ii) rights relating to unfair competition, (iii) rights based on other distinctive and manufacturing achievements, such as tying to a third party's goodwill and (iv) all trade secrets, confidential information and other proprietary rights, including all rights relating to Know-How and other technical information;

**Office Hours:**

the usual working hours at SECUREDD; Monday to Friday 9.00 – 17.00.

**Customer:**

any natural person or legal entity with whom SECUREDD concludes an agreement or negotiates the conclusion thereof;

**Know-How:**

ideas, concepts, inventions, data, Specifications, technical and commercial knowledge and skills and other knowledge and skills relating to the Products, the Services and/or the Agreement;

**Agreement:**

any multilateral legal act between SECUREDD and the Customer, however named and any Change and/or addition thereto as well as all (legal) acts in preparation and execution of the Agreement, including these Terms and Conditions and Specifications;

**Distance Agreement:**

any multilateral legal act between SECUREDD and the Customer, who is also a Consumer, concluded via the Webshop, in preparation and execution of an Agreement;

**Products:**

all items that are the subject of the Agreement, including (peripheral) equipment, Consumables, Hardware and Software;

**Response Time:**

the time within which SECUREDD shall begin to remedy a reported fault;

**Service:**

the elimination of faults in the Products reported by the Customer to SECUREDD by carrying out technical interventions and replacing parts, to the extent deemed necessary by SECUREDD (corrective maintenance), the preventive measures deemed necessary by SECUREDD in order to maintain the Products in the desired technical condition (preventive maintenance), the improvements or other Changes to the Products deemed necessary by SECUREDD in order to keep the Products permanently compliant with the applicable safety requirements or in accordance with the latest state of the art (innovative maintenance). This expressly does not include work resulting from a shortcoming on the part of the Customer;

**Service Level:**

written agreed standards for the quality of the Services;

**Service Agreement:**

a commitment in respect of Service to be provided by SECUREDD for the benefit of the Customer;

**Software:**

the Software supplied by SECUREDD in accordance with the Agreement, including any Third-Party Software supplied by SECUREDD;

**Specifications:**

the Specifications separately attached to the Agreement that, where applicable, describe the Services, the Products, the Technical Requirements of the Customer, the Acceptance Test or the Service Level;

**Technical Requirements of the Customer:**

the written agreed technical requirements placed by the Customer on the Products and/or the Services;

**Fees:**

all Fees agreed and set out in the Agreement and owed or to be owed by the Customer to SECUREDD under the Agreement (including these Terms and Conditions);

**Terms and Conditions:**

General Terms and Conditions, including the Special Terms and Conditions for Service Agreements and the Special Terms and Conditions for IT Services and Consultancy;

**Webshop:**

Any webshop of SECUREDD or selected partners. <https://securedd.nl/>, <https://avgdirekt.nl>, <https://securedd-dach.de/>.

**Working Days:**

a day, not being a Saturday, Sunday or public holiday in the Netherlands as well as a scheduled day off applicable to SECUREDD;

**Work Environment (of the Customer):**

the information, telecommunications and other relevant infrastructure of the Customer, including the internet connections of the Customer as well as the connections of telecommunications providers, connected in any way to or with the Products and/or Services to be provided by SECUREDD under the Agreement;
any change to or adaptation of the Products, the Fees, the Services or otherwise, as agreed by the parties in writing subject to the provisions of Article 25.

**Change:**

This expressly does not include work resulting from a shortcoming on the part of the Customer;
written agreed standards for the quality of the Services;

**Article 2. Applicability of Terms and Conditions**

2.1  These Terms and Conditions apply to all quotations, offers and Agreements relating to the sale, supply and rental of Products and Services from SECUREDD to the Customer.

2.2  In the event of a conflict between the provisions of these Terms and Conditions and the Agreement, the provisions of the Agreement shall prevail. Furthermore, Special Terms and Conditions shall take precedence over General Terms and Conditions. Any deviations from these Terms shall only be permitted if they are in writing and duly signed by both parties.

2.3  The invalidity of one or more provisions of these Terms and Conditions shall not affect the legal force of the remaining provisions.

2.4  In cases not provided for in these Terms and Conditions and the Agreement, SECUREDD shall make reasonable arrangements.

2.5  General Terms and Conditions (of Purchase) of the Customer are expressly rejected.

**Article 3. Offers and conclusion of an Agreement**

3.1  An offer or (price) quotation shall only serve as an invitation to place an order and shall therefore not bind SECUREDD.

3.2  An Agreement shall only come into effect if and insofar as an order is accepted or confirmed in writing by an authorised representative of SECUREDD (including acceptance or confirmation by letter or email) or when SECUREDD executes the order. The provisions of the previous sentence also apply to supplements to the Agreement. SECUREDD is nevertheless entitled to accept a verbal acceptance as if it had been made in writing.

3.3 If descriptions, illustrations, catalogues, technical data, computer programs and the like are part of an offer or (price) quotation, they shall remain the property of SECUREDD at all times, unless expressly waived in writing, and must be returned at the earliest request of SECUREDD. The Customer is responsible for ensuring that this information is not copied or disclosed to third parties or made available for consultation without the consent of SECUREDD. In doing so, SECUREDD reserves any rights under Intellectual Property Rights.

Any errors or slips in an offer, Agreement or documentation shall not bind SECUREDD.

**Article 4. Fees, prices and changes**

4.1  Unless otherwise agreed, the Fees quoted by SECUREDD shall be expressed in euros and exclusive of VAT.

4.2  An administration fee may be charged for Agreements with a value below an amount determined by SECUREDD.

4.3  Fees are based on the circumstances applicable to SECUREDD at the time of the conclusion of an Agreement, such as exchange rates, purchase prices, labour costs, freight rates, import and export duties, excise duties, levies, such as copyright levies, (sub)licence and franchise fees and taxes, charged directly or indirectly by SECUREDD or by third parties to SECUREDD. If these circumstances change after the conclusion of the Agreement, SECUREDD shall be entitled to pass on to the Customer the Fee due to costs resulting from these circumstances. Such changes shall be communicated to the Customer at least 30 days before they take effect.

4.4 SECUREDD shall be entitled to adjust the Fees annually based on cost developments. SECUREDD shall inform the Customer of this in good time.

**Article 5. Deadlines**

5.1  Agreed delivery times can never be regarded as strict, but SECUREDD shall observe them as much as possible. In the event of late delivery, SECUREDD must be served with written notice of default.

5.2  If an agreed deadline is exceeded and if Products and/or Services prove not to be available (on time) in accordance with the Specifications, the Customer shall not be entitled to compensation in this respect. In that case, the Customer shall also not be entitled to (partially) terminate the Agreement, unless the Customer cannot reasonably be required to maintain the relevant part of the Agreement. In the latter case, the Customer shall be entitled to (partially) terminate the Agreement insofar as SECUREDD has failed imputably or delivery cannot take place for reasons of force majeure.

5.3  If SECUREDD requires information or resources from the Customer to execute an Agreement, the delivery period shall never commence before the day on which all necessary information or resources are in the possession of SECUREDD.

5.4  SECUREDD shall at all times be entitled, at its sole option and discretion, to execute an Agreement in instalments and to require payment accordingly. In the event of partial deliveries, these shall be deemed to be based on separate Agreements, to which these Terms and Conditions shall apply.

**Article 6. Delivery and risk**

6.1  SECUREDD shall make the Products available at the location agreed with the Customer. Costs shall be charged for any additional work involved in this regard.

6.2  Upon delivery in accordance with Article 6.1, the risk in respect of the Products shall pass to the Customer.

6.3  If the Customer does not take delivery of the Products or does not take delivery on time, it shall be in default without notice of default being required. In this case, SECUREDD shall be entitled to store the Products at the expense and risk of the Customer. The Customer shall continue to owe the purchase price, plus statutory interest and any costs to be incurred, such as those of transport, storage and insurance.

**Article 7. Delivery and complaints**

7.1  The Customer must inspect the Products carefully and promptly upon delivery or installation. Complaints that relate to noticeable defects in the deliverables must be reported in writing by the Customer to SECUREDD within 3 (three) Working Days of delivery or installation, with a clear and accurate description of the complaint. Defects that were not noticeable at the time of delivery or installation, or which could not have become apparent on careful and prompt inspection, must be brought to the attention of SECUREDD by the Customer within 3 (three) Working Days of their becoming apparent, in the manner described above.

7.2  Upon discovery of a defect, the Customer is obliged to cease and desist immediately from using or installing the Products and furthermore to do and/or refrain from doing everything reasonably possible to prevent (further) damage.

7.3  SECUREDD shall not be liable for a defect in a Product if the Customer has failed to fulfil one or more of its obligations under the Agreement, if the Customer was first to perform.

For complaints reported outside the 3 (three) Business Days, costs may be charged for rectification.

**Article 8. Guarantees and obligations of SECUREDD**

8.1  SECUREDD shall supply the Services and/or Products in accordance with the provisions of the applicable Agreement.

8.2  SECUREDD shall not provide any guarantee or undertaking in relation to any Third-Party Products or Services provided by SECUREDD. In any event, SECUREDD shall never be obliged to provide any further guarantee to the Customer than that which SECUREDD can claim in relation to the third party concerned.

8.3  Provided the Customer has complained in accordance with the provisions of Article 8 and it has been demonstrated that the Products and/or Services do not comply with what has been agreed - at the sole discretion of SECUREDD - SECUREDD shall have the option, where applicable, to:

1. to rectify the defects free of charge;
2. to reimburse the purchase price paid pro rata or credit the as yet unpaid invoice, with termination of the Agreement by written notice;
3. to pay compensation in any form to be agreed with the principal.

By complying with any of the aforementioned actions, SECUREDD shall be fully discharged of its obligations and shall not be liable for any further (compensation) payment.

8.4  A guarantee claim cannot be honoured in one or more of the following cases:

1. if SECUREDD has not been given the opportunity to investigate the merits of the complaint;
2. the complaints were not notified to SECUREDD in compliance with the provisions of Article 7;
3. if the Customer has failed to fulfil one or more of its obligations under the Agreement;
4. insofar as the defect complained about was caused by a third party or by external causes, such as malfunctions and interface problems;
5. if guarantee obligations in respect of Products or Services provided by SECUREDD are assumed by third parties.

**Article 9. Absence of Specifications**

9.1  If, for whatever reason, no Specifications are included in the Agreement, SECUREDD guarantees that the Products and/or Services provided shall, when properly used, have substantially the functionality as shown or explained at the time of delivery and shall function substantially as explained, and also that the Services provided shall be performed with reasonable skill and care.

9.2  The provisions of Articles 8 and 9 shall apply – *mutatis mutandis* – without prejudice to the cases referred to in the previous paragraph.

**Article 10. Guarantees and obligations of the Customer**

10.1 The Customer acknowledges that SECUREDD can only perform its obligations under the Agreement if the Customer cooperates fully and promptly with SECUREDD. Unless the parties have agreed otherwise in the Specifications, the Customer is obliged:

1. to take all precautions, as reasonably necessary, to protect the Work Environment of the Customer, the Products and the Services, in order to minimise the possibility of disruption to its business operations as a result of faults, delays, stoppages or other defects in the Work Environment of the Customer, the Products and the Services;
2. to arrange for full backups of all files, data and/or programs itself, from both before and during the period that SECUREDD provides the Products and/or the Services, in order also to be able to perform any reconstructions;
3. to implement and use effective data protection, access protections, firewalls and antivirus controls itself, including for emails sent to SECUREDD by the Customer and/or its employees, representatives or subcontractors;
4. to ensure that all persons involved in the performance of the obligations of the Customer are competently and properly trained and supervised by the Customer, and that at the request of SECUREDD, a contact person is appointed to keep SECUREDD informed;
5. to make available to SECUREDD any information that SECUREDD requires to fulfil its obligations to the Customer;
6. to follow all instructions and recommendations of SECUREDD and the third parties appointed by SECUREDD, such as auxiliary persons, suppliers and manufacturers.
	1. Before SECUREDD provides the Products and/or the Services, the Customer shall be obliged to make timely preparations to ensure that the Work Environment is functioning properly and in good condition for this purpose, subject to the provisions of Article 11.1.
	2. The Customer shall guarantee:
	3. that it has full authority to enter into and perform the Agreements under the Terms and Conditions described therein;
	4. that it has the right to use the software, hardware, systems, IP addresses, domain names and all other items within its Work Environment, and that such use is in accordance with the relevant Terms and Conditions, licences and third-party agreements;
	5. that the assumption of obligations and the performance thereof by SECUREDD, under the Agreement, does not infringe any rights of or obligations to third parties;
	6. that all necessary permits, consents, approvals, licences and other authorisations required to enter into and perform the Agreement have been obtained in writing;
	7. that it has given all the information to SECUREDD regarding current and past problems that may be relevant for SECUREDD in terms of the performance of the Agreement, including problems related to service deterioration, problems within the Work Environment of the Customer, problems in its relationships with other suppliers, disputes, user problems and other problems related to the Customer or its Work Environment;
	8. that all information, materials, documentation and data, such as IP addresses, email addresses and domain names, provided to SECUREDD in any form by or on behalf of the Customer are substantively correct and complete;
	9. that the Work Environment of the Customer complies with all relevant laws and regulations and mandatory industry standards;
	10. that it has implemented all the prior recommendations of SECUREDD.

10.4  The Customer shall ensure that the Products are not used for purposes contrary to any legal or contractual provision. In this regard, the Customer shall indemnify SECUREDD against third-party claims on that account. In the same way, the Customer shall also indemnify third parties engaged by SECUREDD, such as auxiliary persons, suppliers and manufacturers.

10.5  The Customer shall provide SECUREDD with access to and use of all information, data, documentation, computer time, the Work Environment of the Customer, auxiliary rooms, immovable property, workspaces, personnel, office services, hardware, software and all other items and information required by SECUREDD for the performance of the Agreement.

10.6  Unless otherwise expressly agreed in writing with SECUREDD, the Customer is entirely responsible for the suitability of the Products and/or Services for its business. In this regard, the Customer shall warrant to SECUREDD that the Specifications are correct and complete and meet the Technical Requirements of the Customer.

10.7  The Customer shall indemnify SECUREDD against third-party claims based on Intellectual Property Rights.

10.8  If SECUREDD provides the Customer with cloud services, such as Software as a Service (SaaS), Platform as a Service (PaaS) and Infrastructure as a Service (IaaS), the Customer shall be prohibited, with regard to the use of the server or its data traffic, from engaging in hacking, including gaining unauthorised access to computer systems, software and/or data of third parties. The Customer is furthermore prohibited from engaging, via the cloud service provided by SECUREDD B.V., in illegal activities or activities that may be harmful to the SECUREDD server or any other server connected to the internet. The Customer shall indemnify SECUREDD against any third-party claims on that account.

10.9  Without prejudice to what is otherwise stipulated in the Agreement, SECUREDD shall be entitled – which right the Customer hereby expressly acknowledges – in the event of excessive use of the Product - all at the sole discretion of SECUREDD - to make a reasonable proposal to amend the Agreement or enter into a new Agreement, subject to compliance. If and to the extent that the Customer is unwilling to cooperate in this regard, it shall be in default of Article 18.4 of these Terms and Conditions vis-à-vis SECUREDD.

**Article 11. Liability**

11.1  SECUREDD shall only be liable for damage suffered by the Customer that is the direct and exclusive result of the fault of SECUREDD, provided that the compensation does not exceed the sum of the Fee stipulated for the relevant Agreement, excluding VAT.

11.2  Indirect damage – such as consequential damage, loss of profit, missed opportunities or savings, depreciation of assets, loss of goodwill and reputation, damage due to business interruption, for example due to equipment downtime, damage due to loss of data and environmental damage – shall not be eligible for compensation, barring intent or gross negligence on the part of SECUREDD.

11.3  SECUREDD shall not be liable for faults or defects – in any sense – in the event that SECUREDD has not stipulated any consideration, or for losses incurred as a result of faults in line or beam connections used by the Customer, irrespective of how they arose.

11.4  SECUREDD shall never be liable for damage caused by mains failures or the loss (in whole or in part) of the supply voltage. SECUREDD shall never be liable for the loss or destruction of digitally (on hard disks and/or in the cloud) stored files, documents and/or information, irrespective of the cause, except in the event of wilful intent or deliberate recklessness on the part of SECUREDD.

11.5  SECUREDD shall furthermore not be liable for losses incurred in the performance of Service and management work due to faults, whether or not supplied by SECUREDD.

11.6  Similarly, SECUREDD shall not be liable for decisions taken by the Customer based on advice provided by SECUREDD and any resulting consequences. The Customer shall therefore be responsible for making its own decisions at all times.

11.7  SECUREDD shall never be liable for the consequences of a discrepancy between the suitability of the Products and Services, the Specifications and the Technical Requirements of the Customer.

11.8 The Customer shall reimburse SECUREDD for all costs and damages incurred by it as a result of any failure by the Customer to perform its obligations to SECUREDD under any Agreement, including these Terms and Conditions. Furthermore, the Customer shall reimburse SECUREDD for any damage suffered by it that is otherwise caused by the Customer and/or third parties engaged by the Customer.

**Article 12. Payment**

12.1  The Customer shall pay all Fees charged, in the currency stated on the invoice, and without explicit specification in euros, including VAT, without discount, deduction, set-off or suspension, within 30 (thirty) days from the invoice date in a manner specified by SECUREDD. Unless otherwise agreed, the Customer shall be invoiced every 12 (twelve) months for the periodic usage periods and 15 (fifteen) days before the start of each period. Payment of instalments shall be made by bank transfer, unless expressly agreed otherwise in writing. Agreements with or payments to third parties shall be made by SECUREDD unless expressly agreed, in writing and for each case separately.

12.2  If the Customer fails to pay within the agreed period or the direct debit is rejected, the Customer shall be deemed to be in default by operation of law and SECUREDD, without any notice of default being required, shall be entitled to charge the Customer a fee for loss of interest equal to the legal interest rate pursuant to Article 6:119a of the Civil Code.

12.3 If the Customer is in default vis-à-vis SECUREDD, it shall be obliged, pursuant to the provisions of Article 6:96 paragraph 2, introductory remarks and subparagraph (c) of the Civil Code, to reimburse SECUREDD for the extrajudicial costs, in accordance with the Decree on compensation for extrajudicial collection costs (BIK) or any regulation replacing it.

12.4  If at any time SECUREDD has reasonable doubt as to the creditworthiness of the Customer or its (willingness to comply or) compliance with its obligations to SECUREDD, SECUREDD shall be entitled, prior to (further) performance, to require the Customer to make an advance payment or to provide adequate security equivalent to the amounts that SECUREDD has or shall have to claim from the Customer under the Agreement, whether due or not, at the discretion of SECUREDD.

12.5  Refusal by the Customer to provide the requested security shall entitle SECUREDD to terminate the Agreement, without prejudice to its right to compensation for expenses and loss of profits. All costs associated with providing payment securities shall be borne by the Customer.

12.6  If there is a significant deterioration in the financial position of the Customer after the conclusion of the Agreement but prior to the delivery of the Products and/or Services, SECUREDD shall be entitled to refrain in whole or in part from further performance of the Agreement or to demand a change in the terms of payment.

12.7  If more than one natural person and/or legal entity acts as the Customer, they shall each be bound to SECUREDD jointly and severally for the whole.

**Article 13. Intellectual Property Rights**

13.1  Unless expressly agreed otherwise, all Intellectual Property Rights arising from work performed by or on behalf of SECUREDD in the performance of an Agreement, as well as all Intellectual Property Rights to the products and/or Services provided by SECUREDD, shall vest exclusively and in full in SECUREDD and/or its subcontractors or licensors. This shall also apply to all Intellectual Property Rights to and arising from the Specifications.

13.2  Notwithstanding any other provision in these Terms and Conditions, these Terms and Conditions shall not bring about any Changes in the holders of Intellectual Property Rights in existence prior to the conclusion of these Terms and Conditions.

13.3  The Customer undertakes never to restrict SECUREDD directly or indirectly from using for other Customers the same or similar ideas, concepts, Know-How, techniques, systems, Products, Services or other general knowledge that SECUREDD has obtained or shall obtain in connection with the performance of its obligations under an Agreement.

13.4  The Customer shall only use or disclose to third parties the works resulting from or forming part of the Products and/or the Services that are protected by Intellectual Property Rights to the extent that SECUREDD has issued a written licence to that effect. The Customer shall not be permitted to copy, distribute or otherwise disseminate or disclose any documentation and information supplied with the Products and/or Services other than for internal use.

13.5  The Customer shall not be permitted to remove, modify or make invisible, in whole or in part, any indication concerning copyright, brands, trademarks or Intellectual Property Rights from the Products and Services, including indications concerning the confidential nature and secrecy of the Products or Services and the Software contained therein.

13.6  If the Customer acquires any right to the Intellectual Property Rights referred to in Article 13.1, the Customer shall, at the request of SECUREDD, transfer those Intellectual Property Rights free of charge and, if transfer is not possible, provide SECUREDD with rights of use.

**Article 14. Indemnification in respect of Intellectual Property Rights**

14.1 If the use or possession of the Products and/or the Services by the Customer unexpectedly infringes the Intellectual Property Rights of third parties or SECUREDD considers that this use or possession may qualify as such, SECUREDD may, where SECUREDD deems it appropriate, at its own expense

1. for the benefit of the Customer, acquire the right to continue to use the Product and/or provide the Service, without thereby being liable for the (alleged) infringement;
2. modify or replace the Products and/or the Services to avoid an (alleged) infringement;
3. terminate the Agreement immediately, by written notice, insofar as the breach relates to the Products and/or Services provided, refunding to the Customer the Fees already paid by the Customer and deducting reasonable compensation for the use of the Product and/or Service up to the date of termination.

**Article 15. Software licences**

15.1  SECUREDD shall grant the Customer a non-exclusive licence to use the Software under the terms set out in Articles 13 and 14 and any additional terms, which shall be made available to the Customer upon delivery of the Software, but at all times subject to compliance by the Customer with its obligations to SECUREDD under the relevant Agreement.

15.2  The Customer shall refrain from copying, reproducing or trading (any part of) the Software, except to the extent expressly permitted in the Agreement and except to the extent permitted by law in the given circumstances.

15.3  Insofar as the Software provided by SECUREDD originates from and/or belongs to third parties, the provisions of this Article 15 shall also apply. In that case, SECUREDD B.V. shall grant a sub-licence on this third-party Software under the terms of the agreement between SECUREDD and the licensor, including any applicable General Terms and Conditions of the licensor in question, which the Customer may request from SECUREDD, whereupon SECUREDD shall send these to the Customer free of charge by return of post. If the licensor so desires, the Customer shall cooperate in concluding a separate licence agreement directly with the licensor.

15.4  The Customer shall refrain from decompiling, reverse-engineering, disassembling or otherwise reducing (part of) the Software, or allowing third parties to do so. Except in respect of third-party Software provided by SECUREDD, SECUREDD shall, at the request of the Customer, provide the interface data necessary to enable interoperability between the Software and computer programs independently produced therefrom, upon advance payment of any reasonable expenses to be incurred by SECUREDD in that connection.

15.5  The Customer may only export the Software and other relevant documentation from the country where the Customer originally obtained it if it complies with the applicable import and export laws, rules and other regulations applicable to (part of) the Software and it has obtained the necessary permission from the relevant authorities.

15.6  The source code of the Software and the technical documentation produced in the development of the Software shall not be made available to the Customer.

15.7  Immediately after termination of the right to use the Software, for whatever reason, the Customer shall return all copies of the Software in its possession to SECUREDD, provided that the Software does not form an inseparable whole with the other components of the Product and/or the Service. If the parties have agreed that, at the end of the right of use, the Customer shall destroy those copies of the Software that do not form an inseparable whole with the other components of the Product and/or the Service, the Customer shall notify SECUREDD of such destruction in writing without delay and, if requested, provide evidence of such destruction by means of a declaration by an independent expert.

15.8  Unless expressly agreed otherwise in writing, the Customer shall itself examine the suitability of the Software upgrades or new versions for use in accordance with the Specifications and their compatibility with the operating system, database software, web browsers and versions adapted to the specific requirements of the Customer.
Software upgrades or new versions may be provided by SECUREDD on request, when available to SECUREDD, but only for such time and on such terms as SECUREDD deems commercially and practically feasible.

15.9  Without prejudice to what is otherwise stipulated in the Agreement, the maintenance obligation of SECUREDD shall in all cases be limited by the extent to which the Supplier supports the Software – including upgrades and new versions – that it puts into use. The maintenance obligation of SECUREDD shall therefore end at such time as the Supplier ceases to support the Software – including upgrades and new versions – that it puts into use.

15.10  Upon termination of the rights of use in the Software, the Service Agreement shall end insofar as it relates to that Software.

**Article 16. Force majeure**

16.1  If either party is prevented from performing its obligations under the Agreement due to force majeure, that party shall notify the other party immediately of such force majeure, giving full details, including a reasonable estimate of the expected duration of the force majeure. Furthermore, that party shall keep the other party informed of all developments related to the force majeure. In order to bring the force majeure situation to an end as soon as possible, the party in such a force majeure situation shall be obliged to take those measures as may be expected of a party acting reasonably and diligently. Such measures shall be for the account and risk of the party in the force majeure situation.

16.2  A force majeure situation shall exist if a party cannot fulfil its obligations under the Agreement as a result of circumstances that are beyond its control and furthermore cannot be attributed to it by virtue of the law, a guarantee given by it or generally accepted practice. Force majeure shall include: war, riots and hostilities of any kind, blockade, boycott, natural disasters, epidemics, lack of raw materials, prevention and interruption of transport facilities, disruptions within the business of SECUREDD, import or export restrictions or bans, impediments caused by measures, laws or decisions of international, national or regional governmental bodies.

16.3  SECUREDD shall never be liable for damage resulting from force majeure. SECUREDD can never be held liable for compensation by the Customer.

16.4  In situations of temporary force majeure, the mutual obligations of that part of the Agreement affected by the force majeure situation shall be suspended.

16.5  In the event of partial performance by SECUREDD, the Customer shall be liable for a proportionate share of the Fees.

16.6  In the event of force majeure, the Customer shall not be entitled to any compensation or damages, even if SECUREDD may have any advantage as a result of the force majeure.

16.7  If a suspension as referred to above has lasted for more than 3 (three) months or if in the opinion of both SECUREDD and the Customer it has already been established in advance that it shall last for more than 3 (three) months, each of the parties may terminate the Agreement, insofar as the force majeure situation justifies this, by registered letter with immediate effect, without the other party being liable to pay any fee or compensation in this regard.

**Article 17. Creditor default**

17.1 No shortcoming can ever be attributed to SECUREDD in the event that SECUREDD is able to claim creditor default. Creditor default arises, inter alia, if the Customer fails to take care or fails to take proper care of

1. the installation and/or maintenance of a system to correct errors, current Software upgrades or new versions, which SECUREDD has supplied or which are generally made available by SECUREDD suppliers;
2. the compliance of the Work Environment of the Customer with relevant laws and regulations and mandatory industry standards, which may be applicable;
3. adequate, proper and/or complete preparation and/or maintenance of the Work Environment of the Customer;
4. an act or omission by the Customer or a third party that renders SECUREDD totally or partially unable to perform its obligations under the Agreement or otherwise.

**Article 18. Default, termination and compensation**

18.1  If the Customer fails to comply, does not comply properly or does not comply on time with any obligation incumbent upon it under the Agreement and is therefore in default, SECUREDD shall be entitled to suspend the performance of the Agreement and any related obligations until the Customer has complied with its obligations under the Agreement.

18.2  The Customer shall be in default by operation of law, that is, without notice of default, if any of the circumstances mentioned below occur with regard to the Customer:

1. application for bankruptcy and/or emergency regulation or declaration of bankruptcy and/or declaration of emergency regulation applicable;
2. application for suspension of payments;
3. declaration of the application of a legal debt rescheduling arrangement;
4. application or declaration of applicability of an insolvency scheme;
5. offer of any arrangement to creditors;
6. or similar legal facts and circumstances under foreign or international law.

18.3  The Customer shall also be in default if, after having been duly served with a notice of default by SECUREDD, it fails to fulfil one or more of its obligations under the Agreement, or fails to do so properly or on time. This shall also apply if the Customer decides unilaterally to terminate a project or service.

18.4  If the Customer is in default, SECUREDD shall have the power to:

1. claim performance of the Agreement from the Customer, as well as any additional compensation;
2. claim substitute compensation from the Customer as referred to in Article 6:87 of the Civil Code, instead of performance of the Agreement;
3. claim compensation from the Customer as referred to in Article 6:74 of the Civil Code;
4. terminate the Agreement in whole or in part.

18.5  Any substitute compensation as referred to in Article 18.4, introductory remarks and subparagraph (b), shall be due and payable immediately and shall be assessed at (i) the amount equal to the sum of the expired, unpaid Fees and (ii) the unexpired, future Fees that the Customer would owe SECUREDD in the event that the Agreement were to be fulfilled.

18.6  In the event that SECUREDD chooses to terminate all or part of the Agreement based on a situation defined in paragraphs 2 and 3 of this article, either by an extrajudicial declaration or by the court, the Customer shall be obliged to compensate SECUREDD for the loss incurred. Such termination compensation shall be assessed at the amount equal to the sum of the Fees that the Customer would have owed SECUREDD in the event that no termination of the Agreement had taken place but the Agreement had been fulfilled.

18.7 If SECUREDD terminates the Agreement, it shall be entitled to take back the relevant Products. The Customer shall then be obliged to take the necessary measures and perform acts to enable SECUREDD to enforce its rights under penalty of an immediately payable fine of EUR 1,000 (in words: one thousand euros) for each day that SECUREDD is prevented from enforcing its rights.

**Article 19. Transfer of rights and obligations**

19.1  The Customer may not transfer rights and obligations arising from the Agreement to third parties without the written consent of SECUREDD. In the event that SECUREDD provides cover for the contract takeover (transfer) referred to in the previous sentence, the Customer shall be liable to pay SECUREDD a fee for administration costs in this regard. This fee shall be EUR 250 (two hundred and fifty euros) excluding VAT in case of a contract value to be transferred of less than EUR 1,000,000 (one million euros), and EUR 500 (five hundred euros) in case of a contract value to be transferred of EUR 1,000,000 (one million euros) or more.

**Article 20. Use of personal data**

20.1  Both SECUREDD and the Customer shall comply with applicable laws and regulations to protect privacy, more specifically the General Data Protection Regulation (hereinafter: GDPR).

20.2  In the event that the Products or Services of SECUREDD involve the processing of personal data and SECUREDD acts as “processor” within the meaning of Article 4(8) GDPR and the Customer as “data controller” within the meaning of Article 4(7) GDPR, a “processor agreement”, which includes additional safeguards regarding the processing and security of personal data, shall form an integral part of the Agreements between SECUREDD and the Customer.

**Article 21. Scope of the Agreement**

21.1  The Customer shall be responsible for carrying out any work not expressly assigned to SECUREDD under or pursuant to the Agreement or that is not the responsibility of SECUREDD the by virtue of the Agreement.

21.2  Unless SECUREDD has stated otherwise in writing, the Customer acknowledges and accepts that if it asks SECUREDD to perform such work, it must pay a Fee to SECUREDD for such work and that such Fee shall be determined based on the then current hourly rates and material costs of SECUREDD.

**Article 22. Confidentiality**

22.1  The contents of the Agreement and all information obtained by the parties under the Agreement, with the exception of data that are publicly known, shall be considered by the parties as strictly confidential information. The parties shall maintain complete confidentiality with regard to the confidential information during the term of the Agreement and for 3 (three) years after the end of the Agreement.

22.2  The parties shall not disseminate confidential information within their organisation more widely than is necessary for the proper performance of the Agreement. The parties shall require their personnel to comply with these confidentiality provisions.

22.3  The confidential information referred to in the previous paragraphs shall include, inter alia, information on the manner of conducting business, specific Know-How and financial and technical data.

22.4  Confidential information shall only be disclosed to third parties after obtaining the written consent of the other party to do so and in cases where required by law.

**Article 23. Changes to these Terms and Conditions**

23.1  SECUREDD shall be entitled to amend these Terms and Conditions on minor points. SECUREDD shall notify the customer/partner of any changes to these Terms and Conditions at least 10 (ten) calendar days before they take effect. Said Changes shall take effect on the date specified in the notification.

23.2  SECUREDD shall announce the Changes referred to in the previous paragraph by means of a personal notification, and/or by means of a general notification on its website.

23.3  The Changes referred to in the first paragraph of this article shall also apply in respect of pre-existing Agreements, unless the parties have agreed otherwise in writing.

23.4  The Customer shall not be entitled to terminate the Agreement prematurely if SECUREDD changes these Terms and Conditions.

**Article 24. Other provisions**

24.1  A failure by a party to exercise or defer a right under the Agreement in whole or in part shall not constitute a waiver of such right. A single or partial exercise of a right under the Agreement by a party will not preclude any other or further exercise of that right or other rights.

24.2  If any provision of the Agreement is held to be invalid, illegal or unenforceable, this shall in no way affect or diminish the validity, legality or enforceability of the remaining provisions.

24.3  These Terms and Conditions can be requested free of charge from SECUREDD.

**Article 25. Changed circumstances**

25.1  If unforeseen circumstances arise, such as a change in laws and regulations, as a result of which SECUREDD can no longer be expected to maintain the Agreement unchanged, according to standards of reasonableness and fairness, the parties shall adjust the existing Agreement to the extent necessary.

25.2  If, in the situation referred to in the first paragraph of this article, the parties are unable to amend the existing Agreement, they shall enter into consultations on entering into a new agreement.

**Article 26. Choice of law and competent court**

26.1  The Agreement is governed by Dutch law.

26.2  Disputes arising from the Agreement, these Terms and Conditions and the rules and regulations applicable hereunder shall, to the extent not otherwise prescribed by mandatory law, be submitted to the competent judge of the District Court of The Hague.

**Article 27. Service Agreement**

27.1  The obligation of SECUREDD to provide Service to the Customer must at all times be in writing, failing which SECUREDD cannot be obliged to provide Service to the Customer. If no Service has been agreed in the Agreement, but the Customer nevertheless wishes it, SECUREDD shall make a proposal to the Customer in this regard, subject to the provisions of Article 3 of these Terms and Conditions. If the Customer does not accept the offer, it shall nevertheless owe SECUREDD the costs that SECUREDD had to incur to provide the Customer with a tailor-made offer.

**Article 28. Special obligations of the Customer**

28.1  The Customer shall carefully observe and implement the directions, instructions and rules given by SECUREDD regarding the use and maintenance of the Products, as set out in the operating instructions.

28.2  The Customer shall not be permitted to make any Changes, adaptations, additions, improvements and the like to the Products or the system within which they operate, or to have them made by third parties, other than with the prior written consent of SECUREDD, failing which all the obligations of SECUREDD shall lapse.

28.3  The Customer shall not be permitted to carry out (or arrange for the carrying out of) the work covered by the term Service itself unless SECUREDD has given its written consent to this effect.

**Article 29. Execution of the Service**

29.1  In principle, all work shall be carried out by or on behalf of SECUREDD during Office Hours.

29.2  SECUREDD shall instruct the personnel it uses to follow the rules and regulations to be provided by the Customer.

29.3  All (parts of) Products replaced by SECUREDD in the performance of the Service shall become or remain the property of SECUREDD.

* SECUREDD is committed to achieving optimal availability, but does not offer any guarantees in this regard unless included in a separate Service Level Agreement (SLA).
* SECUREDD shall be entitled to perform updates and upgrades resulting in downtime within business hours, without affecting the availability included in an SLA.
* SECUREDD shall have the right to change the functionality, giving expiry notice of existing features with reasonable notice.

**Article 30. Service fee**

30.1  SECUREDD shall provide the Service against payment of the Fee agreed in writing with the Customer. If no Fee has been agreed, the Fee shall be calculated on the basis of the rates and prices applicable at SECUREDD at the time the Service is provided. SECUREDD shall invoice periodically – unless otherwise agreed, every 3 (three) months – in advance.

30.3  The Customer shall be charged separately, at the rates and prices of SECUREDD applicable at the time of performance, for the costs of:

1. execution of orders given by the Customer orally or in writing that are not covered by the Service Agreement;
2. work resulting from a shortcoming on the part of the Customer;
3. waiting periods if a service technician cannot start or continue his or her work as a result of causes attributable to the Customer;
4. work outside Office Hours;
5. Service requested by the Customer without sufficient grounds.

30.4  The Fee quoted by SECUREDD shall be for a period of 12 (twelve) months. SECUREDD shall set the fee ahead of the next 12 (twelve) months on each occasion. This Change shall be announced at least 30 (thirty) days prior to the intended effective date. If and to the extent that this leads to an increase in the annual Fee by a percentage greater than 15% (fifteen per cent), the Customer shall have the right to terminate the Lease and the Service Agreement in writing within 3 (three) weeks of the announcement of the price increase and in any event prior to the intended effective date. In calculating the percentage referred to in this paragraph, the increase in the Fee pursuant to paragraphs 1 and 2 of this article as well as the costs charged to the Customer pursuant to Article 33.3 (a) to (g) shall be disregarded.

**Article 31. Duration of the Service Agreement**

31.1 The term of the Service Agreement shall be set out in writing and shall be equal to the term of the Master Agreement - including its tacit renewal - unless expressly agreed otherwise in writing.

**Article 32. Ownership and risk**

32.1  The Customer acknowledges that the Products are and shall remain the (intellectual) property of SECUREDD or the subcontractors and/or licensors of SECUREDD and the Customer or a third party parts integrated into or attached to the Products shall remain or become the (intellectual) property of SECUREDD or said SECUREDD and/or licensors, without the Customer being entitled to any compensation.

32.3  The Customer shall refrain from all acts, undertakings and/or statements from which acknowledgement of an obligation to pay compensation could be inferred and shall, in general, refrain from doing anything that could harm the interests of SECUREDD and/or its insurance company.

**Article 33. Relationship to the Service Agreement**

33.1 If an Agreement is concluded, the Customer is also obliged to conclude a Service Agreement in respect of the products purchased. If no Service Agreement is concluded, SECUREDD shall be entitled to terminate the agreement after serving formal notice, whereby the Customer shall be given a reasonable period in which to enter into a Service Agreement.

**Article 34. Applicability of Special Terms and Conditions for IT Network Installation and Consultancy**

34.1 The following provisions shall always apply, in addition to Articles 1 to 29, to Agreements where SECUREDD supplies Products to the Customer, which are to be adapted to the business of the Customer and/or where SECUREDD focuses on the development, installation and/or support of the information technology network of the Customer, or in the event that the following provisions are explicitly declared applicable.

**Article 35. Responsibilities of the Customer**

35.1  Insofar as they form part of the Specifications, the Customer shall be fully responsible for the accuracy and completeness of the Technical Requirements of the Customer and for the establishment of the Service Levels.

35.2  The Customer cannot claim any compensation, replacement, repair or modification if the Products and/or Services do not meet the Technical Requirements of the Customer that are not expressly stated in the Specifications and/or not expressly agreed by the parties in writing.

**Article 36. Acceptance Tests**

36.1  The provisions of this article shall apply insofar as the parties have agreed on an Acceptance Test.

36.2  When one or more Products and/or Services are ready to be tested, SECUREDD shall notify the Customer accordingly. Acceptance Tests shall be carried out by SECUREDD for the purpose of demonstrating that one or more Products and/or Services substantially meet the Technical Requirements of the Customer. Acceptance testing may be carried out by SECUREDD after the Products and/or Services have been delivered to the Customer, or at any other point in the delivery process.

36.3  The Customer undertakes to provide, at the request of SECUREDD, free of charge, such assistance and support as SECUREDD may require from time to time in carrying out the Acceptance Tests. These Acceptance Tests may be attended by an authorised representative of the Customer.

36.4  Acceptance shall take place when SECUREDD notifies the Customer in writing that a Product or Service has successfully passed the Acceptance Tests, in accordance with the Agreement. Upon receipt by the Customer of such notice from SECUREDD, the Customer shall, for the sake of completeness, send an Acceptance Certificate signed by it to SECUREDD. Failure to sign and/or return the Acceptance Certificate shall not affect the Acceptance itself.

36.5 Acceptance shall also take place automatically as soon as the Customer uses a Product or a Service for a purpose other than assisting SECUREDD in performing the Acceptance Tests.

**Article 37. Rejection of Acceptance**

37.1  If an Acceptance Test fails in accordance with the provisions of Article 35, the Customer shall provide SECUREDD, free of charge, with such assistance and support as may be necessary to ascertain the cause of the failure of the relevant Acceptance Test and to assist SECUREDD in repeating the relevant Acceptance Test.

37.2  If SECUREDD is unable to satisfy an Acceptance Test to a significant extent because one or more Products or Services are defective, SECUREDD shall, at its option, at its own expense and within a reasonable time - repair or replace the defective Products and/or Services in such a way that they can successfully pass the Acceptance Tests.

37.3  If SECUREDD has taken the measures referred to in Article 45.2 and the Product and/or Service still fails the relevant Acceptance Test to a significant extent, the Customer may return the defective Product and/or Service to SECUREDD and receive a refund of the Fees paid for that Product and/or that Service, without prejudice to the obligation of the Customer to pay SECUREDD for the Products retained by the Customer and less a reasonable fee for any benefit derived by the Customer from the Product, unless the defect is directly or indirectly attributable to the Customer.

37.4  If, for any reason other than as set out in Article 36.2, a Product or Service does not successfully pass the relevant Acceptance Test to a significant extent, the Customer shall be entitled to demand that SECUREDD, within a reasonable time and at its own expense, modify part of the Specifications in consultation with the Customer so that the Product and/or Service successfully passes the relevant Acceptance Test, unless the defect is directly or indirectly attributable to the Customer.

37.5  To the extent that the amended Specifications provide for the need for additional Products and/or Services to successfully pass the relevant Acceptance Test, SECUREDD shall cooperate to enable the Customer to purchase such additional Products or Services. Following delivery of such additional Products and/or Services, Acceptance Tests shall be carried out in accordance with the provisions of Article 45.

**Article 38. Consequences of Acceptance**

38.1 From the time of Acceptance, SECUREDD shall no longer be bound by the obligations and any liabilities arising from the delivery and/or installation of the Products and/or Services, insofar as they relate to IT network installation and consultancy.

**Article 39. Delivery of Services**

39.1 If the Services provided by SECUREDD do not meet the Technical Requirements of the Customer and/or the Service Levels, as set out in the Specifications, to a significant extent, SECUREDD shall, as soon as practicable, take all reasonable steps to remedy such defects for the future free of charge. SECUREDD shall not be responsible for failure to meet the Technical Requirements of the Customer and the Service Levels, to the extent that such failure is attributable to the Customer.

 **Article 40. Distance Agreement/Webshop**

40.1 These Terms shall apply in full to any offer made by SECUREDD and to any Distance Agreement concluded between SECUREDD and the Customer, who is also a Consumer, it being understood that the provisions of this section shall prevail in the event that they conflict with the law or the other provisions of these Terms and Conditions.

40.2 Before the Distance Agreement is concluded electronically, the text of these Terms and Conditions shall be made available to the Customer, who is also a Consumer, electronically in such a way that it can be easily stored by the Customer, who is also a Consumer, on a durable data carrier. If this is not reasonably possible, prior to the conclusion of the Distance Agreement, it shall be indicated where the Terms and Conditions can be inspected electronically and that, at the request of the Customer, who is also a Consumer, they shall be provided electronically or otherwise free of charge.

**Article 41. Offer**

41.1 The offer shall contain a complete and accurate description of the Products and/or Services offered. The description shall be sufficiently detailed to allow a proper assessment of the offer by the Customer, who is also a Consumer. If SECUREDD uses pictures, they shall be a true representation of the Products and/or Services offered. Obvious mistakes or obvious errors in the offer shall bind SECUREDD.

41.2 Each offer shall contain such information that the rights and obligations attached to acceptance of the offer are clear to the Customer, who is also a Consumer. This shall include, in particular, the price, VAT payable, method of payment, delivery and performance of the Agreement.

**Article 42. Order**

42.1 SECUREDD shall be entitled to refuse orders made through a Webshop or to attach certain conditions to the delivery. These conditions shall then be expressly stated in the offer. Orders shall in any case be refused if all the necessary information has not been provided by the Customer, who is also a Consumer, or if all the information has not been entered in the relevant fields on the Webshop order form. If an order is not accepted, SECUREDD shall communicate this no later than thirty (30) days after receipt of the order.

42.2 An order via a Webshop may only be cancelled by the Customer, who is also a Consumer, if SECUREDD has unambiguously agreed to this in writing.

**Article 43. Termination**

43.1 As long as receipt of acceptance has not been confirmed by SECUREDD, the Customer, who is also a Consumer, may terminate the Agreement at no cost. The Customer, who is also a Consumer, shall not be entitled to compensation.

43.2 If delivery has not taken place or has only taken place in part within thirty (30) calendar days after the agreed delivery date, the Customer, who is also a Consumer, shall be entitled to rescind the Distance Agreement in respect of the part for which fulfilment has not taken place.