

GENERAL TERMS AND CONDITIONS OF SALE AND SERVICES

Article 1. Definitions and terms in these conditions

1. **3W Infra:** a private company with limited liability 3W Infra B.V., with its registered office at Lemelerbergweg 28, 1101 AH, Amsterdam, the Netherlands, user of these general terms and conditions, hereinafter referred to as 3W INFRA.

Customer: the counterparty of 3W INFRA, hereinafter referred to as CUSTOMER.

Agreement: means the Master Service Agreement (if concluded), each Quote, the Services Specification, the Service Level Agreement, the General Conditions, the Policies and Privacy Statement.

Work: the provision of services, without any relationship of subordination and employment or contracting of work, or the provision of advice as stated above and/or the delivery of goods, all this in the broadest sense of the word and as stated in the Agreement.

Conditions: these General Terms and Conditions of Sale and Services.

Quote: means any offer, quote, proposal and/or tender-bid made by 3W INFRA. Quotes cease to apply after thirty (30) days from the date of the relevant Quote or any other period stated in the Quote.

Order: upon approval, therefore acceptance, by CUSTOMER or prospect a Quote shall be deemed an Order.

Term: means the period for which the Agreement and/or an Order has been entered into.

Article 2. Applicability of the Conditions

1. The Conditions are applicable to each quotation, offer and Agreement between 3W INFRA and CUSTOMER that has been declared subject to these Conditions by 3W INFRA, insofar as these Conditions are not explicitly departed from by the parties in writing. The conclusion of an Agreement with 3W INFRA means that the CUSTOMER unconditionally accepts the applicability of these Conditions.
2. The Conditions also apply to Agreements with 3W INFRA, for the execution of which 3W INFRA must engage a third-party.
3. If, at any one time, one or more provisions in these Conditions are partly or fully null and void or partly or fully voided, the other provisions of these Conditions remain fully applicable. In that instance, 3W INFRA and the CUSTOMER will consult each other in order to agree upon new provisions to replace the null and void or voided provisions, while duly observing the objective and purport of the original provisions, if and insofar as possible.

4. The applicability of purchase or other conditions of the CUSTOMER is explicitly excluded.
5. Any departures from these Conditions are only applicable insofar as explicitly agreed upon in writing and only apply to the specific Agreement which the departures relate to.
6. In the event of uncertainties regarding the interpretation of one or more provisions of these Conditions, the interpretation must be 'in the spirit' of these provisions.
7. In the event of a situation arising between the parties not provided for in these Conditions, the situation must be assessed 'in the spirit' of these Conditions.
8. In the event of these Conditions and the Master Service Agreement containing any contradictory provisions, the conditions as stipulated in the Master Service Agreement apply.
9. 3W INFRA reserves the right to unilaterally amend the conditions set out in the General Terms and Conditions of Sale and Services.

Article 3. Formation of the Agreement

1. The offers and quotations by 3W INFRA are free of obligation and revocable, unless the offer states a term for acceptance.
2. Furthermore, all offers and quotations are based on the information provided by the CUSTOMER. If the aforesaid information appears to be incorrect or incomplete, the CUSTOMER will be unable to derive any rights from an (accepted) offer or quotation in relation to 3W INFRA.
3. 3W INFRA is not obliged to abide by its offers or quotations, if the CUSTOMER can reasonably understand that the offer or quotation, or parts thereof, contains an apparent error or mistake. 3W INFRA shall be entitled to terminate or refuse an (accepted) Order, by giving written notice to CUSTOMER, considering a seven (7) day notice period.
4. An Agreement is only concluded the moment 3W INFRA has accepted or confirmed an order or instruction in writing or by email.
5. In addition, 3W INFRA may require CUSTOMER to provide a deposit or a bank guarantee, equivalent to up to three (3) month's Service Charge or other security satisfactory to 3W INFRA. Any deposit or bank guarantee shall be held by 3W INFRA as security for payment of Service Charges and any amounts due under the Agreement. Upon termination or expiration of the Agreement, 3W INFRA may apply a deposit or bank guarantee to any amounts owed by CUSTOMER to 3W INFRA. Any remaining credit balance of a deposit or other security shall be refunded to CUSTOMER. Any deposit paid by CUSTOMER pursuant to this clause will not carry any interest.
6. In general, the Agreement will consist of the following documents, whereby in the event of any inconsistency or conflict between or among provisions of the following documents, the contents of the document first listed shall

have precedence and shall prevail over the documents listed later, in descending order:

- a. The Master Service Agreement (if entered into);
 - b. The Change Order Form (only in relation to the relevant Quote/Order);
 - c. The Quote/Order;
 - d. Data Processor Agreement (if concluded);
 - e. Privacy Statement;
 - f. Confidentiality Agreement (if concluded);
 - g. The Services Specification;
 - h. The Service Level Agreement;
 - i. The General Conditions;
 - j. The Policies.
7. The invoice or delivery note with regard to Agreements, deliveries and instructions for which no written offer or confirmation of order was submitted will be regarded as confirmation of order instead and deemed to be a correct and full reflection of the Agreement.
 8. 3W INFRA is entitled to unilaterally amend (part of) the Agreement and its supporting documentation. Such amendment also applies to existing Services, unless 3W INFRA stated otherwise. The amendment comes into effect with an announcement or on a later date stated in the announcement.
 9. The CUSTOMER is not entitled to sell and/or transfer the rights and/or obligations under the Agreement to a third-party without the prior written consent of 3W INFRA.
 10. 3W INFRA is entitled to transfer its claims for payment of charges to a third-party.

Article 4. Execution of the Agreement

1. All services by 3W INFRA are provided on the basis of a best efforts obligation, unless and insofar as 3W INFRA has explicitly promised a result in the written Agreement and the result in question is sufficiently determinable.
2. If and insofar as required by a proper execution of the Agreement, 3W INFRA is entitled to have certain work carried out by auxiliary personnel and a third-party. The applicability of articles 7:404, 7:407 paragraph 2 and 7:409 of the Netherlands Civil Code is explicitly excluded. If engaging a third-party, 3W INFRA will exercise due care.
3. 3W INFRA cannot be held liable for damage caused by third-party failures and assumes or, if so required, herewith stipulates that each instruction to 3W INFRA implies the authorization to accept any restrictions on third-party liability, also on behalf of the CUSTOMER.
4. The CUSTOMER will ensure that all information, with regard to which 3W INFRA indicates that it is required or with regard to which the CUSTOMER can reasonably understand that it is required for the execution of the Agreement, is made available to 3W INFRA in time. The execution term does not commence until the CUSTOMER has made the information available to 3W INFRA.
5. If it has been agreed that the Agreement will be executed in phases, 3W INFRA may suspend the execution of those parts pertaining to a following phase until the CUSTOMER has approved the results of the preceding phase, in writing.
6. The CUSTOMER bears the risk of the selection, use, application and management of the equipment, software,

websites, data files and other items and materials in its organization, and of the Services to be provided by 3W INFRA. The CUSTOMER itself is responsible for the correct installation, assembly and commissioning and for the correct settings of the equipment, software, websites, data files and other items and materials.

7. If it has been agreed that the CUSTOMER will make equipment, materials, data carriers and/or information on data carriers available to 3W INFRA, they must meet the specifications which will be communicated by 3W INFRA to the CUSTOMER.
8. The CUSTOMER ensures that the space where 3W INFRA is to carry out its work for the CUSTOMER and/or where the inspection and/or test activities are to take place and/or where the goods that are subject to the warranty obligations are located will meet the requirements of temperature and humidity levels, absence of draught, power and water supply and other environmental requirements and that these requirements continue to be met at all times.
9. In the event of employees of 3W INFRA carrying out work on-site at the CUSTOMER, the CUSTOMER will provide the facilities reasonably required by these employees, such as a work area with computer, data and telecommunications facilities, free of charge. The work areas and facilities must meet all statutory requirements and other regulations concerning working conditions.
10. The CUSTOMER indemnifies 3W INFRA against claims brought by a third-party, including employees of 3W INFRA, who suffer damage in connection with the execution of this Agreement as a result of acts or omissions of the CUSTOMER, or any unsafe situations in its organization. The CUSTOMER, prior to commencement of the work, will inform employees deployed by 3W INFRA of the company and safety regulations applicable within its organization.
11. If computer, data or telecommunications facilities, including the Internet, are used for the execution of the Agreement, the CUSTOMER will be responsible for the correct choice of resources needed to that end and the prompt and full availability thereof, except for those facilities that are under the direct use and management of 3W INFRA. 3W INFRA will never be liable for losses or costs due to transmission errors, breakdowns or the non-availability of these facilities, unless the CUSTOMER proves that these losses or costs are the result of intent or gross negligence on the part of 3W INFRA or its management.
12. All costs to be incurred by 3W INFRA due to failure by the CUSTOMER to fulfill the obligations as stated in this article, or failure to do so promptly and/or properly, will be at the expense of the CUSTOMER.

Article 5. Delivery and risk

1. All (delivery) terms and dates given or agreed by 3W INFRA are, to the best of its knowledge, based on the information known to 3W INFRA at the time the Agreement was concluded. The interim (delivery) dates given by 3W INFRA or agreed between the parties are

always target dates, do not bind 3W INFRA and are provided for indicative purposes only.

2. 3W INFRA will make every reasonable effort to honor the agreed and final (delivery) terms and dates as much as possible. 3W INFRA is not bound by (delivery) terms and dates, final or otherwise, which can no longer be honored due to circumstances beyond its control.
3. The mere failure to honor a (delivery) term or date, final or otherwise, given by 3W INFRA or agreed between the parties, does not imply that 3W INFRA is in default.
4. If nonetheless 3W INFRA is unable to meet its obligations within an agreed final deadline, 3W INFRA can only be declared in default in writing, in which case 3W INFRA will be granted a term of at least 14 days to remedy the situation.
5. Delivery will be Ex Works 3W INFRA, unless otherwise agreed in writing. Only if so agreed in writing will 3W INFRA deliver the goods sold or arrange for the goods sold to be delivered to the CUSTOMER at a location to be appointed by the CUSTOMER. The delivery times issued by 3W INFRA are at all times given for indicative purposes only.
6. In the event of delivered duty paid, not including the unloading of goods from any means of transport, the goods will travel at the expense and risk of 3W INFRA. In all other cases, the goods travel at the expense and risk of the CUSTOMER. Time of delivery will in such case be the time that the goods have left the 3W INFRA branch or when 3W INFRA has notified the CUSTOMER that the goods are ready for dispatch.
7. Delivery conditions will be in accordance with the most recently published "Incoterms", insofar as they do not depart from the provisions of these conditions and/or the arrangements laid down in writing between the CUSTOMER and 3W INFRA.
8. War risk will always be at the expense of the CUSTOMER.
9. 3W INFRA will only take out insurance at the request and expense of the CUSTOMER. The CUSTOMER can never derive more rights from this provision than if the CUSTOMER itself had taken out the insurance contract.
10. 3W INFRA may regard the given delivery address as the current address, until such time that it has been notified of a new delivery address. Any damage or losses arising from this will be at the expense of the CUSTOMER.

Article 6. Changes, contract extras and premature cancellation

1. 3W INFRA may discontinue sales, support or offerings of Equipment and Services at any time. 3W INFRA will use commercially reasonable efforts to provide advance notice.
2. If 3W INFRA, at the request or with the prior approval of the CUSTOMER, has carried out work or delivered other performances that fall outside the content or scope of the agreed work and/or performances, this work or these performances will be paid for by the CUSTOMER in accordance with the agreed rates and, in the absence thereof, in accordance with the usual rates of 3W INFRA. 3W INFRA is never obliged to comply with such a request

and may demand a separate written Agreement to be concluded for that purpose.

3. The CUSTOMER accepts that the agreed or anticipated completion date of the service provision and the mutual responsibilities of the CUSTOMER and 3W INFRA may be affected by the work or performances referred to in this article. The fact that (the demand for) contract extras arise will never give the CUSTOMER ground for termination or (premature) cancellation of the Agreement.
4. Insofar as a fixed price has been agreed for the service provision, 3W INFRA, if so requested, will notify the CUSTOMER of the financial consequences of the additional work or performances as referred to in this article, in writing.
5. Cancellation must be affected by a registered letter to that end.

Article 7. Delivery

1. 3W INFRA sells to the CUSTOMER and the CUSTOMER purchases from 3W INFRA the goods in accordance with the nature and quantity agreed between the parties in writing.
2. The CUSTOMER bears the risk of the selection of the goods purchased. 3W INFRA guarantees that, upon delivery, the goods are suitable for normal use and that they meet the specifications agreed between the parties in writing. 3W INFRA does not guarantee that the goods are suitable for the intended use of the CUSTOMER, unless the written agreement between the parties clearly and without reservation specifies the specific use.
3. The Agreement does in any case not include assembly and installation materials, software, consumables, batteries, stamps, ink (cartridges), toner products, cables and accessories, unless agreed upon between the parties in writing.
4. 3W INFRA does not guarantee that the assembly, installation and user instructions applicable to the goods are error-free and that the goods contain the properties as stated in these instructions.
5. Unless explicitly agreed otherwise, the purchase price of the goods does not include the costs of transport, insurance, lifting and hoisting, renting temporary facilities, etc.
6. 3W INFRA will pack the goods in accordance with the usual criteria applicable at 3W INFRA.
7. The CUSTOMER must provide for an environment which meets the requirements specified by 3W INFRA for the relevant case, including temperature, humidity and technical environmental requirements.
8. If so agreed between the parties in writing, 3W INFRA will install, configure and/or connect the goods (or arrange for the goods to be installed, configured and/or connected). Any obligation on the part of 3W INFRA to install and/or configure the equipment does not include the data conversions and installing software.
9. 3W INFRA is at all times entitled to execute the Agreement in part deliveries.
10. Only if so agreed in writing will 3W INFRA be obliged to set up a test bed with regard to the goods the CUSTOMER is interested in.

11. 3W INFRA may attach (financial) conditions to a test bed.
12. The CUSTOMER is liable for the use, damage, theft or loss of goods that form part of the test bed.

Article 8. Taking delivery

1. If, upon concluding the Agreement, no term has been agreed within which the CUSTOMER must take delivery of goods, it must take delivery thereof within one week of the goods being ready for taking delivery.
2. Upon failure to take delivery of the goods within the agreed term, the CUSTOMER, in either case, will be in default by operation of law, without a demand or notice of default being required.
3. The CUSTOMER is obliged to reimburse all costs or losses, including storage costs, arising from its refusal to take delivery of the goods. 3W INFRA will further be entitled, at its discretion, to either demand performance or consider the agreement terminated without any judicial intervention, without prejudice to the right to demand (additional) compensation of damages from the CUSTOMER.

Article 9. Execution of the work

1. Where possible, the working hours of personnel at 3W INFRA will be synchronized with those applicable at the CUSTOMER, insofar as these are between 9:00 a.m. and 6:00 p.m. CE(S)T (Central European (Summer) Time), exclusive of Saturdays, Sundays and Dutch public holidays.
2. The time and location of execution with regard to instructions for the execution of work and/or the provision of Services that are subject to a fixed price are at all times decided by 3W INFRA.
3. With regard to instructions based on an hourly rate, the location referred to in Clause 9.2 will at all times be decided by the CUSTOMER or, failing that, by 3W INFRA.

Article 10. Prices and payment

1. All prices are exclusive of VAT, and exclusive of ordering, handling and drop shipment costs, cash on delivery charges, packaging, packaging materials, dispatch, transport documents, assembly/installation, inspection, insurance and any other taxes or duties to be levied by the government. All prices are at all times stated in Euros and must be paid by the CUSTOMER in that currency, unless otherwise agreed.
2. All cost estimates and budgets by 3W INFRA are issued for indicative purposes only, unless expressed otherwise by 3W INFRA in writing. The CUSTOMER can never derive rights or expectations from cost estimates or budgets issued by 3W INFRA. An available budget as indicated by the CUSTOMER to 3W INFRA will never serve as a (fixed) price agreed between the parties for the performances to be delivered by 3W INFRA. Only if so agreed between the parties in writing will 3W INFRA be obliged to notify the CUSTOMER of impending over expenditure of an estimate or budget issued by 3W INFRA.
3. 3W INFRA has the right to change the rates. The CUSTOMER will be notified of these changes by means of

email, normal post and/or the website of 3W INFRA, at least two (2) months before they take effect. The CUSTOMER will be entitled to terminate the Agreement with effect from the day that the change takes effect, provided the price change represents an increase in price.

4. The payment obligation of the CUSTOMER commences on the day the Agreement is concluded. Payments relate to the period that starts on the day on which the goods and Services of 3W INFRA become actually available ("ready for service date" or "RFS date").
5. The RFS date is confirmed by 3W INFRA.
6. Payment must in any case and at all times be made within fourteen (14) days of the invoice date, in a manner to be designated by 3W INFRA.
7. In the event of direct debit payments, the CUSTOMER is obliged to ensure that its account balance holds sufficient funds.
8. In case CUSTOMER has a complaint with respect to an invoice, CUSTOMER shall communicate such complaint in writing to 3W INFRA within the payment term. A complaint with respect to an invoice shall only be taken into consideration in the event that the complaint specifies the relevant invoice(s) and provides proper motivation for the complaint. In such case, the Parties will use commercially reasonable efforts to resolve the dispute amicably within twenty (20) days of 3W INFRA's receipt of CUSTOMER's complaint. In the event Parties fail to resolve the dispute amicably within twenty (20) days of 3W INFRA's receipt of CUSTOMER's complaint, each Party shall be entitled to commence dispute resolution in accordance with Clause 19.2.
9. If the CUSTOMER fails to pay an invoice in time and/or in full, it will be in default by operation of law. In that case, 3W INFRA shall, without a warning or notice of default being required, charge CUSTOMER interest on such sum on a daily basis on the basis of the statutory commercial interest rate plus two (2) percent, without prejudice to 3W INFRA's other rights and remedies. The interest on the amount payable is calculated from the moment the CUSTOMER is in default, until the moment that the amount owed has been paid in full.
10. In the event that the CUSTOMER is in default or fails to (timely) fulfill its obligations, all extrajudicial costs reasonably incurred to collect payment will be at the expense of the CUSTOMER. The extrajudicial costs will be calculated in accordance with the calculation method of Rapport Voorwerk II (containing guidelines for calculating extrajudicial costs). This includes, but is not limited to all legal expenses made by 3W INFRA.
11. The CUSTOMER is never entitled to set off any amounts owed to 3W INFRA. Objections to the amount of the invoice do not suspend the obligation to pay. A CUSTOMER who cannot invoke section 6.5.3 (articles 231 to 247 of Book 6) of the Netherlands Civil Code is also not entitled to suspend payment of an invoice for any other reason.

Article 11. Term and termination of agreements

1. The Agreement is entered into for fixed period of time, unless the nature or essence of the instruction given dictates an indefinite period of time.
2. At the end of the Term, the Agreement shall be renewed for successive terms equal to the initial Term, unless either Party notifies the other in writing that it does not agree to renewal of the Agreement, considering a notice period of at least:
 - a. One (1) business day, in the event of a Term of one (1) month or longer;
 - b. One (1) calendar month, in the event of a Term of twelve (12) months or longer.
3. A fixed-term Agreement cannot be terminated prematurely, unless in the event of urgent cause, as a result of which the CUSTOMER or 3W INFRA can no longer be reasonably required to continue to perform the Agreement or carry out the instruction. The other Party must be notified of this in writing, supported by reasons.
4. The above is without prejudice to the obligation of the CUSTOMER to pay to 3W INFRA, in full, the agreed-on fee. If the CUSTOMER, prematurely, has fully or partially terminated the Agreement in accordance with the clause above and with mutual approval from the parties, 3W INFRA will be entitled to compensation of its loss from lower capacity utilization incurred on its part and to be demonstrated plausibly, as well as compensation for any additional costs it has reasonably incurred as a result of early termination of the Agreement. All this applies, unless in the event of facts or circumstances that have given rise to premature termination, which facts or circumstances can be attributed to 3W INFRA.
5. If either Party goes into liquidation, files for a moratorium or ceases its business operations, the other Party is entitled to terminate the Agreement without observing a notice period, all this while reserving all rights.
6. 3W INFRA is entitled to (partially) suspend fulfillment of its obligations or to dissolve the Agreement, if:
 - the CUSTOMER fails to fulfill its obligations under the Agreement, or fails to do so in full or in time;
 - after conclusion of the Agreement, 3W INFRA, on the basis of information it has become aware of, has good reason to fear that the CUSTOMER will not be able to fulfill its obligations;
 - due to delays on the part of the CUSTOMER, 3W INFRA can no longer be required to perform the Agreement under the conditions agreed initially.
7. In the event 3W INFRA has suspended the fulfillment of its obligations under the Agreement due to the CUSTOMER failing to pay an invoice on time or in full, 3W INFRA is entitled to levy a fee of 15% of the total outstanding invoice amount in addition to the total outstanding invoice amount and the statutory interest due in order to reactivate its obligations under the Agreement. Reactivation will take place following payment by the CUSTOMER of the additional fee and the total outstanding invoice amount and the statutory interest due.
8. 3W INFRA further has the right to suspend the issue of documents or other items to the CUSTOMER or a third-

party, until all debts due and payable by the CUSTOMER have been settled in full.

9. If the progress in the execution or completion of the work is delayed due to default by the CUSTOMER or force majeure on its part, 3W INFRA will be entitled to charge the agreed amount in full, without prejudice to its right to demand further compensation of costs, damages and interests.
10. Upon termination or expiration of the Agreement:
 - a. 3W INFRA shall cease to provide all Services;
 - b. 3W INFRA shall, subject to 3W INFRA's Privacy Statement, be entitled to erase and delete all data of CUSTOMER – and any and all data of CUSTOMER's End-Users – from 3W INFRA's Equipment, including the Dedicated Equipment;
 - c. 3W INFRA shall be entitled to make the Dedicated Equipment available for use by other customers;
 - d. CUSTOMER shall, subject 3W INFRA's Privacy Statement and Clause 11.12, remove all the Colocated Equipment from the Data Center and shall return the Housing Space to 3W INFRA in the same condition it was in prior to CUSTOMER's use thereof.
 - e. Any claims 3W INFRA has against the CUSTOMER become immediately due and payable upon termination of the Agreement.
11. If CUSTOMER does not timely (within two (2) days of the termination or expiry date of the Agreement) remove the Colocated Equipment, (i) 3W INFRA may – at CUSTOMER's expense – remove and store the Colocated Equipment or return such Equipment to CUSTOMER, or dispose of such Equipment without liability for any damages; and (ii) CUSTOMER shall be liable to pay to 3W INFRA a penalty equal to one (1) month Service Charge for the terminated Colocation Services for each month, or part of a month, that CUSTOMER has failed to remove the Colocated Equipment.
12. 3W INFRA will have the right to retain any Colocated Equipment until it has received payment in full of all sums due and/or payable by CUSTOMER to 3W INFRA. If 3W INFRA has not received such sums within a reasonable time frame (within five (5) days of the termination or expiry date of the Agreement), 3W INFRA shall be entitled to sell any Colocated Equipment, necessary to recoup all sums due and/or payable, at such price as 3W INFRA is able to obtain in the open market.

Article 12. Liability

1. 3W INFRA will carry out its work to the best of its ability and observe due care and attention as befits 3W INFRA. In the event of an anomaly due to the CUSTOMER providing incorrect or incomplete information, 3W INFRA will not be liable for any damage or losses arising from it.
2. 3W INFRA cannot be held liable for the security or third-party misuse of data stored or sent within the framework of the Agreement. For example, 3W INFRA will not be liable for costs and/or damages as a result of corruption, destruction or loss of files, data and other information carriers of the CUSTOMER. The CUSTOMER is deemed to

be always in the possession of readable copies of files, data and other information carriers and is therefore responsible for making readable backups and the permanent storage thereof.

3. The liability of 3W INFRA on account of attributable failure to perform an Agreement arises only subject to the CUSTOMER having given 3W INFRA immediate and proper notice of default, allowing for a reasonable period to remedy the breach, and 3W INFRA continues to fail attributable in the fulfillment of its obligations thereafter. In order to allow 3W INFRA to respond adequately, the notice of default must contain a description of the failure that is as accurate as possible.
4. In the event of imputable failure in the performance of the Agreement, 3W INFRA will only be liable to pay alternative compensation, i.e. reimbursement of the value of the performance that has not been delivered.
5. Hence the liability of 3W INFRA will be limited to the invoice value of the goods delivered or the payment received by 3W INFRA for its work within the framework of the Agreement. With regard to Agreements with terms that exceed a period of six (6) months, liability will be further limited to reimbursement of the last three (3) months.
6. In addition, the liability of 3W INFRA in its entirety will be limited to the amount payable in the relevant case by virtue of the professional or business liability insurance, increased by the excess amount.
7. The aforesaid limitations in liability do not apply in the event of gross negligence or intent by 3W INFRA.
8. 3W INFRA cannot be held liable for persons engaged by 3W INFRA on the instruction of the CUSTOMER.
9. In the event of liability, 3W INFRA can only be held liable for direct damage. 3W INFRA will not be liable for direct, indirect and/or consequential damage or losses (including, but not limited to, lost profits, losses due to business interruptions, loss of relations due to delays and otherwise, loss of data and goodwill, late deliveries and/or defects), other than the direct financial loss incurred by the 3W INFRA.
10. The CUSTOMER is obliged to notify 3W INFRA, in writing, within two (2) months of the CUSTOMER having identified or having had a reasonable opportunity to identify an anomaly in the execution of the Agreement and the possible risk of damage arising from it. If the notification referred to in the previous clause is not sent or sent too late, 3W INFRA will not be obliged to reimburse the CUSTOMER for any 3W INFRA damages incurred in any way or deemed suitable and in keeping with the contents of the instruction and the nature of the work.
11. The CUSTOMER indemnifies 3W INFRA against all claims that a third-party allege to have and assert against 3W INFRA by way of compensation of damage suffered, costs incurred, lost profits and other expenses that are in any way related to and/or arise from the execution of the instruction by 3W INFRA.
12. 3W INFRA can never be held liable for damage arising from work instructed by the CUSTOMER and in breach of the standard guidelines commonly accepted in the ICT industry.

13. Any right of the CUSTOMER towards 3W INFRA in respect of damage incurred by possible failures and/or mistakes of 3W INFRA in the execution of the Agreement lapses after expiry of twelve (12) months, counting from the day of delivery of the goods or completion of the work.

Article 13. Force majeure

1. Force majeure within the framework of the Agreement is taken to mean all that is referred to in the law and case law.
2. Force majeure in any event includes: delays at or breach of contract by suppliers of 3W INFRA, the inability to supply due to a government order or statutory provision, the inability to supply due to fault or intention of our subordinates or a third-party engaged by 3W INFRA, war, the threat of war, regardless of whether the Netherlands are directly involved or not, fire or other destructions at the company of 3W INFRA, a full or partial strike in the transport system and a breakdown of machines and/or tools or other interruptions at 3W INFRA or its suppliers.
3. 3W INFRA is not obliged to fulfil its obligations under the Agreement if doing so has become impossible on account of force majeure. In that instance the Agreement will be terminated.
4. During the time that the force majeure period continues, 3W INFRA will be entitled to suspend any obligations under the Agreement. If this period exceeds a term of two (2) months, either Party is entitled to terminate the agreement without further obligation to compensate the other Party for any damage or losses.
5. Insofar as 3W INFRA has meanwhile partially fulfilled its obligations under the Agreement at the time the force majeure commences, or will be able to do so, and the fulfilled part and/or the part to be fulfilled represents independent value, 3W INFRA will be entitled to separately invoice the part that has already been fulfilled and/or is yet to be fulfilled. The CUSTOMER will be obliged to pay this invoice on the basis of an assumed separate Agreement.

Article 14. Warranties and complaints

1. The warranty to be issued on goods supplied is limited to the warranty issued by the relevant manufacturer or importer, unless otherwise agreed in writing.
2. The right to warranty must be demonstrated by the CUSTOMER, by means of serial or license numbers, if so required, and/or by producing invoices with this information.
3. If the CUSTOMER wishes to offer goods for repair, under the warranty framework or otherwise, it is responsible for the assessment and documentation of the condition in which the goods to be repaired are offered. The packaging must clearly show an RMA number assigned by 3W INFRA. 3W INFRA has the right to refuse goods offered and to return them at the expense of the CUSTOMER, if damage has been caused by poor packaging and/or if the goods do not show an RMA number.

4. Except in the event that repairs are carried out within the framework of the warranty, the costs of repair will be subject to a prior, written cost estimate. 3W INFRA is entitled to charge the CUSTOMER for fault-finding exercises not covered under the warranty by virtue of these provisions, in accordance with the rates applicable at 3W INFRA and increased by any costs for the return shipment plus (re-)packaging. The same applies if no faults are found or if the CUSTOMER opts out of having the repairs done, after having received an estimate of the repair costs. Repairs are warranted for a period of thirty (30) days.
5. If, in accordance with the reasonable opinion of 3W INFRA, repairs are not possible, or if repairs involve disproportionately high costs, 3W INFRA will be entitled to replace the goods, free of charge, with similar, but not necessarily identical goods.
6. Data conversion necessary as a result of the repairs or replacement falls outside the scope of the warranty.
7. Ownership of all replaced parts reverts to 3W INFRA.
8. The warranty obligation ceases to have effect if the material defects or manufacturing faults can be fully or partially attributed to careless or improper use or to external causes such as damage caused by fire or water, or if the CUSTOMER, without the approval of 3W INFRA, makes changes, or arranges for changes to be made, to the goods or parts supplied by 3W INFRA within the framework of the warranty of maintenance.
9. 3W INFRA is not obliged to repair faults reported after expiry of the warranty period referred to in this article, unless a maintenance agreement has been concluded between the parties, stipulating such obligation to rectify a defect.
10. 3W INFRA is never obliged to recover corrupted or lost data.
11. Complaints in respect of the Services provided must be submitted by the CUSTOMER to 3W INFRA in writing, in any case within fourteen (14) days of discovery, yet no later than thirty (30) days after the relevant Service was provided. In order to allow 3W INFRA to respond adequately, the notice of default must contain a description of the failure that is as accurate as possible.
12. If a complaint is well-founded, 3W INFRA will remedy the situation and provide the Service as agreed, unless this has meanwhile become demonstrable pointless for the CUSTOMER. The latter must be expressed by the CUSTOMER in writing.
13. If the subsequent execution of the agreed work or delivery of goods is no longer possible or useful, 3W INFRA will only be liable within the limits of article

Article 15. Complaints and short deliveries

1. Any complaints, either in respect of Services provided and/or work completed and/or matters such as invoice amounts must be submitted to 3W INFRA within five (5) days of receipt thereof, by registered letter, giving an accurate breakdown of the facts which, the complaint relates to. Damage or short deliveries must be reported to 3W INFRA in writing, within 24 hours of delivery.

2. Complaints that have been submitted but which do not meet the above conditions are not processed and the CUSTOMER will be deemed to have approved of the goods and items supplied.
3. Submitting a complaint does not give the CUSTOMER the right to suspend the fulfilment of its obligations towards 3W INFRA.
4. 3W INFRA will only be obliged to process complaints, if the relevant CUSTOMER, at the time of submitting its complaint, has fulfilled all its obligations towards 3W INFRA, arising from any commitment between the CUSTOMER and 3W INFRA.

Article 16. Confidentiality and takeover of personnel

1. Unless any statutory provision, rule or other regulation dictates otherwise, 3W INFRA is obliged to observe secrecy towards a third-party with regard to confidential information obtained from the CUSTOMER. The CUSTOMER can grant exemption in this respect. Information will be considered confidential when the other Party notifies the receiving Party thereof or when this ensues from the nature of the information.
2. Save written approval from the CUSTOMER, 3W INFRA is not permitted to use the information made available to 3W INFRA by the CUSTOMER for purposes other than for which it was disclosed. However, an exception is made in case 3W INFRA appears in disciplinary, civil or criminal proceedings during which this information can be of importance.
3. During the term of the Agreement, as well as up to one (1) year after termination thereof, each of the parties will refrain from recruiting staff from the other Party who have been involved in the performance of the Agreement or otherwise arrange for these staff members to work for them, either directly or indirectly, unless the other Party has granted its prior written approval to that end. Conditions may be attached to the aforesaid approval.

Article 17. Retention of title and right of retention

1. All goods supplied or created by 3W INFRA within the framework of the Agreement will remain the property of 3W INFRA, until all monies owed by the CUSTOMER to 3W INFRA have been settled in full.
2. Rights, including user rights, will be granted or transferred to the CUSTOMER as and when necessary, on the condition that the CUSTOMER has fully settled all payments owed under the Agreement concluded between the parties. If the parties have agreed on a periodic payment obligation by the CUSTOMER for the granting of a user right, the CUSTOMER will be entitled to the user right provided it continues to meet its periodic payment obligation.
3. Goods supplied by 3W INFRA that are subject to retention of title may not be resold, unless exclusively sold within the framework of its normal business operations. The latter does not apply if 3W INFRA has demanded from the CUSTOMER in writing to make the goods supplied available to 3W INFRA with immediate effect. The goods may never be used as a means of payment. The

CUSTOMER is not entitled to pledge the goods that are subject to retention of title, or to encumber them in any other way.

4. The CUSTOMER must make every effort which may reasonably be expected from it to protect the proprietary rights of 3W INFRA, at all times.
5. The CUSTOMER undertakes to insure the goods supplied subject to retention of title.
6. In the event that 3W INFRA wishes to exercise its proprietary rights referred to in this article, the CUSTOMER hereby gives its unconditional and irrevocable permission to 3W INFRA and any third-party to be appointed by 3W INFRA, to access any location as to where the property of 3W INFRA may be stored and to retrieve those goods.
7. If 3W INFRA is unable to exercise its retention to title due to the goods supplied having been mixed, deformed or subjected to accession, the CUSTOMER is obliged to pledge the newly created goods to 3W INFRA.
8. 3W INFRA may retain the items, products, property rights, data, documents, software, data files and (interim) results of the service provision by 3W INFRA received or generated within the framework of the Agreement, despite an existing obligation to surrender or transfer, until the CUSTOMER has settled all monies owed to 3W INFRA.

Article 18. Intellectual property

1. All intellectual and industrial property rights to the software, websites, data files, equipment etc. developed or made available by virtue of the Agreement are vested exclusively in 3W INFRA. The CUSTOMER only obtains the rights of use explicitly granted under these Conditions and the law. Any other or further right of the CUSTOMER to multiply the software, websites, data files or other materials is excluded. The right of use of the CUSTOMER is non-exclusive and nontransferable to a third-party.
2. The CUSTOMER is not allowed to change or remove any notice pertaining to the confidential character and/or to the copyrights, brands, trade names or other intellectual or industrial property rights of the software, websites, data files, equipment or materials.
3. 3W INFRA reserves all rights of and in relation to intellectual property rights to goods which 3W INFRA uses or has used in the execution of the Agreement.
4. The CUSTOMER is not allowed to make available goods to a third-party for the purpose other than obtaining an expert opinion regarding the work of 3W INFRA.
5. 3W INFRA is entitled to use the knowledge it has gained during the execution of an Agreement for other purposes also, insofar as it does not disclose any strictly confidential information of the CUSTOMER to a third-party.
6. Violation of the provisions of Articles 16, 17 and 18 of the Conditions and Articles 5 and 6 of the Master Service Agreement, will result in the CUSTOMER being liable to pay a penalty of € 5,000 (five thousand Euros) for each offence and/or for each day or parts thereof that the CUSTOMER remains in default, without prejudice to the remaining rights that 3W INFRA may exercise.

Article 19. Applicable law and conditions

1. All agreements between the CUSTOMER and 3W INFRA are governed exclusively by Dutch law. Any applicability of the Vienna Sales Convention is excluded.
2. All disputes in relation to or arising from the interpretation and/or performance of the Agreement will be settled by the District Court of Amsterdam, with the exception of disputes that fall within the exclusive jurisdiction of the sub-district court.
3. These conditions can be sent by 3W INFRA on request, free of charge. The conditions can also be consulted and stored by means of the website of 3W INFRA.
4. The most recently filed version of these Conditions will apply or, as the case may be, the version applicable when the legal relationship with 3W INFRA was entered into applies.