

General Conditions | WSS Infocard Systems

Version: 3.0

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To the use of the Services of WSS Infocard Systems by the client with whom WSS Infocard Systems concludes an Agreement ("**Client**"), the general conditions below apply.

The Services are offered by WSS Infocard Systems B.V., established on Siliciumweg 3 in (3812 SV) Amersfoort and registered at the Chamber of Commerce under registration number 69620172 ("**WSS Infocard Systems**").

Article 1. Definitions

The terms written with a capital letter in these General Conditions (both in the plural and in the singular) have the meaning as described below:

11. **Account:** the personal account which is made available by WSS Infocard Systems to Client with the purpose of enabling the use of the purchased Services, as well as such additional (sub-) accounts as are to be created by Client.
12. **General Conditions:** the underlying conditions.
13. **Client:** the natural person or legal person acting from the exercise of profession or business with whom WSS Infocard Systems has concluded the Agreement.
14. **Services:** all services which WSS Infocard Systems provides pursuant to the Agreement to Client, which may include in any case: (i) the supplying of Software (- as-a-Service), (ii) the making available of such Software, (iii) the maintenance on that Software, (iv) the supplying of Electronic Products (iv) the supplying of telecom subscriptions of third parties.
15. **Final Users:** the persons who obtain access through Client to the Services supplied by WSS Infocard Systems to Client.
16. **Electronic Products:** all products which WSS Infocard Systems delivers to Client pursuant to the Agreement, such as access, measuring, and registration systems, as well as registration chips and access cards.
17. **Intellectual Property Rights:** all rights of intellectual property and related rights, including in any case copyrights, databank rights, rights to domain names, trade name rights, rights to know-how, brand rights, model rights, neighbouring rights, and patent rights.
18. **Office hours:** the period of time between 8:30 AM and 5:00 PM from Monday to Friday, with the exception of official Netherlands holidays.
19. **Material:** all works, such as websites and (web) applications, house styles, logos, folders, brochures, leaflets, lettering, advertisements, marketing and/or communication plans, concepts, pictures, texts, sketches, documentation, advice, reports, and other creations of the mind, as well as preparatory material thereof and files (whether or not in coded form) or information carriers on which the material is located.
110. **Additional Work:** additional activities or services which fall outside the scope of the Agreement.
111. **Agreement:** the quotation or offer (as accepted by Client) on grounds of which WSS Infocard Systems provides its to Client, including the present General Conditions and such Processor Agreement as may pertain.
112. **Party/Parties:** the party/parties to the Agreement, WSS Infocard Systems and Client jointly or separately.

- 1.13. **Written:** correspondence stipulated on paper, dated and signed. By written is also intended, besides the paper documents referred to, e-mail, to the extent the provenance and integrity of these messages is sufficiently certain.
- 1.14. **Service Level Agreement:** a document concluded between Parties designated as such regarding the quality of the Service (availability, response times, etc.).
- 1.15. **Software:** all computer programs which WSS Infocard Systems provides on grounds of the Agreement.
- 1.16. **Emergency Maintenance:** unforeseen maintenance which is reasonably required in connection with the availability, usability and/or security of the Services.
- 1.17. **Confidential Information:** information marked as confidential or for which it is indicated explicitly beforehand that it is confidential.
- 1.18. **Processor Agreement:** such processor agreement between Parties which regards the Services and, if concluded, is a part of the Agreement.

Article 2. Adoption

- 2.1. All quotations and other offers of WSS Infocard Systems are non-committal and valid until the date indicated in the quotation or offer. WSS Infocard Systems is not obliged to act on an acceptance to after expiry of this period, but if WSS Infocard Systems proceeds to do so, the quotation or the offer is considered as accepted at such stage.
- 2.2. If the acceptance by Client (whether or not on minor points) deviates from the offer, WSS Infocard Systems is not bound by it. In such case, the Agreement is not adopted in accordance with this deviating acceptance, unless WSS Infocard Systems explicitly indicates otherwise.
- 2.3. To the extent WSS Infocard Systems supplies telecom subscriptions to Client on grounds of the Agreement, such General Conditions as these third parties may have are applicable to the telecom services purchased by Client. These General Conditions can be consulted and downloaded on the website of WSS Infocards Systems/ will be forwarded by WSS Infocards Systems along with the quotation.

Article 3. Implementation of the Agreement

- 3.1. After adoption of the Agreement, WSS Infocard Systems will exert itself to provide the Services as soon as possible in conformity with the Agreement. Terms announced by WSS Infocard Systems are indicative and are not considered strict time limits. If it is stated explicitly that a term is a fatal time limit, then WSS Infocard Systems is not in default before their default has been declared in writing and they have still not complied within the reasonable term set.
- 3.2. Client will provide WSS Infocard Systems with all assistance which is necessary and desirable to enable the correct and timely delivery of the Services. Client will in any case:
 - a. provide all information for which WSS Infocard Systems indicates that it is necessary, or of which Client should reasonably understand that they are necessary for the delivery of the Services;
 - b. grant WSS Infocard Systems access to all areas, services, and accounts under his control if and to the extent necessary for the provision of the Services.
- 3.3. WSS Infocard Systems will take into account as much as possible the reasonable requests of Client during implementation of the Agreement but is not obliged to heed such a request. WSS Infocard Systems has the right to apply additional charges for the implementation of such a request. If a request of Client cannot be accommodated, WSS Infocard Systems will indicate in a motivated manner why.

34. WSS Infocard Systems has the right to deploy third parties for the implementation of the Agreement. Any possible associated costs are only borne by Client if it has been established beforehand.
35. If collaborators of WSS Infocard Systems during implementation of the Agreement carry out activities at the offices of Client or at another location designated by Client, Client will provide, free of charges, all support and facilities, such as a suitable workstation, for the purpose of conducting the activities.
36. WSS Infocard Systems executes the established activities at own discretion and has the right to determine and organize the timing and duration at own discretion.

Article 4. Additional Work

- 4.1. If Client requests additional activities or Services which fall outside the scope of the Agreement, Parties will consult with each other regarding and WSS Infocard Systems will prepare an additional quotation. WSS Infocard Systems will only carry out the Additional Work after acceptance of the quotation by Client.
- 4.2. For Additional Work of which WSS Infocard Systems can demonstrate that it is reasonably required for the provision of the Services, or which reasonably flows from the instructions of Client, WSS Infocard Systems does not require permission. Such activities are carried out based on post-calculation against the hourly rate of WSS Infocard Systems which is effective at the moment the activities are carried out.

Article 5. Delivery and acceptance

- 5.1. WSS Infocard Systems will deliver the Services when in their professional opinion they are compliant with the description in the Agreement or they are suitable for use. Client will evaluate the delivered matters within seven days after delivery and approve or reject them in conformity with the description provided in the Agreement or with such delivery criteria as have been further established. If Client does not reject the delivered matters within this period, what is delivered is considered to have been accepted.
- 5.2. If the Services are delivered in stages, Client must grant approval or rejection upon delivery of each stage of the part of the Services of such stage in the manner as established in the preceding section. Client cannot base an approval or rejection on aspects which were approved at an earlier stage.
- 5.3. If Client rejects the delivered matters entirely or partially, WSS Infocard Systems will exert itself to eliminate the grounds for rejection as soon as possible. WSS Infocard Systems can do so by revising the results or by indicating in a substantiated manner why those grounds do not apply. Client subsequently has fourteen days to approve or reject the revision or motivation. In case of rejection, the agreement is terminated, and such costs as have already been incurred by WSS Infocard Systems are billed.
- 5.4. Client may only reject the Services on grounds of substantial deviations of the functional specification from the Agreement.
- 5.5. If objections only regard minor aspects, the Services are considered to have been accepted under the reservation that such objections will be eliminated still within a reasonable term by WSS Infocard Systems.
- 5.6. For errors which are discovered after acceptance, no liability exists for WSS Infocard Systems, unless WSS Infocard Systems was aware of them or should have been familiar with them upon delivery.

Article 6. Modifications and corrections

- 6.1. WSS Infocard Systems can modify the Services to resolve errors, to add new functionalities or to improve the performances. WSS Infocard Systems can consult with Client about such modifications beforehand, but the final decision regarding whether or not to implement the modification is taken by WSS Infocard Systems.

- 6.2. If modifications in the opinion of WSS Infocard Systems lead to a substantial change to the functionality of the Services, WSS Infocard Systems strives to announce the modifications beforehand by e-mail to Client.
- 6.3. WSS Infocard Systems will exert itself to resolve any possible errors in the Services, but for doing so depends on its suppliers as well. WSS Infocard Systems has the right not to install certain updates or upgrades from suppliers if in their opinion they do not benefit the functioning of the Services.
- 6.4. If the implementation of modifications and corrections may lead to a limitation of the availability of the Services, they are carried out as much as possible outside office hours. Emergency Maintenance may be carried out at any time and is not announced beforehand.

Article 7. Support

- 7.1. WSS Infocard Systems will provide a reasonable level of support to Final Users and Client with regard to questions about the use and management of the Services, as well as technical issues which are related to the Services.
- 7.2. The support as described in article 7.1 is offered through a help desk which can be reached during Office Hours both by e-mail at service@wss.eu, and telephonically on 088-355 8100.
- 7.3. WSS Infocard Systems strives to process help desk requests within a reasonable term. The time which is required to resolve reports may vary.

Article 8. Availability

- 8.1. WSS Infocard Systems strives to keep the Services on-line as much as possible, but cannot guarantee uninterrupted availability, unless established in a Service Level Agreement.
- 8.2. If in the opinion of WSS Infocard Systems danger arises for the functioning of the computer systems or the network of WSS Infocard Systems or third parties, for example in case of a (d)dos-attack or activities of malware, WSS Infocard Systems has the right to take all such measures as they deem reasonably required to avert the danger and to mitigate or prevent the damage. This may result in limited availability.
- 8.3. WSS Infocard Systems can create back-ups but is not bound to do so.

Article 9. Rules of use

- 9.1. It is prohibited to use the Services in a manner which is in conflict with these conditions or with applicable legislation and regulations.
- 9.2. If WSS Infocard Systems notes that Client or a Final User violates these conditions or the law, or receives a complaint regarding, WSS Infocard Systems may intervene to terminate the violation. In such case, WSS Infocard Systems may block access to the relevant information.
- 9.3. If in the opinion of WSS Infocard Systems nuisance, damage, or another peril arises for the functioning of the computer systems or the network of WSS Infocard Systems or third parties and/or of the provision of services through the internet, especially by the excessive sending of e-mail or other information, the leaking of personal data or activities of viruses, trojans, and comparable software, WSS Infocard Systems is authorised to take all measures which it deems reasonably required to avert this danger or to prevent it. These measures comprise, though they are not limited to, the suspension of the Services and/or termination of the Agreement.
- 9.4. Client must shield off access to the Account by way of the username and password from unauthorised people. Especially the password must be kept strictly secret. WSS Infocard Systems may assume that what is done from the Account of Client, after logging in with username and password, takes place under the direction and supervision of Client.

- 9.5. WSS Infocard Systems is authorised at all times to file a police report for such criminal acts as are identified and will provide their assistance to orders issued competently. In addition, WSS Infocard Systems has the right to release the name, address, IP-address, and other identifying information of Client/ a Final User to a third party which complains that Client/ a Final User infringes on its rights or the present conditions, on condition:
- a) it is sufficiently plausible that the information, considered by itself, is illegitimate and harmful towards the third party;
 - b) the third party has a genuine interest in the obtaining of the information;
 - c) it is plausible that in the concrete case at hand there is not a less drastic option to retrieve the information; and
 - d) the weighing of the interests involved entails that the interest of the third party should prevail.
- 9.6. Client is obligated to follow all reasonable instructions of WSS Infocard Systems which regard the use of the Services.
- 9.7. WSS Infocard Systems can claim the damage resulting from violations of the rules from this article from Client. Client safeguards WSS Infocard Systems against all claims by third parties which regard damage as a result of an infringement of the rules from this article.

Article 10. Security and privacy

- 10.1. WSS Infocard Systems will exert itself to the utmost to secure the Services against abuse and unauthorised access to information of Client. Specifically, WSS Infocard Systems has ISO 9001 and ISO 14001 certifications.
- 10.2. During implementation of the Agreement, WSS Infocard Systems may process personal data for the benefit of Client, whereby Client must be designated as data controller, and WSS Infocard Systems as processor. In such case as may occur, Parties will conclude a Processor Agreement in which arrangements for the processing and security of the personal data are established. The terms mentioned have the meaning as established in the applicable privacy legislation.
- 10.3. Client guarantees that any possible provision of (personal) data to WSS Infocard Systems is legitimate and that the processing of these data in conformity with the Agreement does not violate any applicable privacy legislation and regulations.

Article 11. Intellectual Property Rights

- 11.1. All Intellectual Property Rights to the Services and any possible Material which is delivered on grounds of the Agreement by WSS Infocard Systems lie with WSS Infocard Systems or their licensors.
- 11.2. Client obtains from WSS Infocard Systems the non-exclusive, non-transferable and non-sub-licensable user rights with regard to the Services and any possible Material to the extent such flow from the Agreement or they have been attributed otherwise in writing. The user rights are valid for the duration of the Agreement.
- 11.3. Client is not authorised to apply modifications to the Services and is not entitled to a copy of the source files of the Services, barring in such cases where it is legally permitted.
- 11.4. WSS Infocard Systems can take (technical) measures to protect the Services. If WSS Infocard Systems has taken such security measures, it is not permitted to Client to circumvent or remove such safeguard.

115. It is not permitted to Client to remove or alter any indication of Intellectual Property Rights from the Services. It is not permitted either to remove indications regarding the confidential character from the Services.

Article 12. Delivery of Electronic Products

- 12.1. If Client purchases Electronic Products from WSS Infocard Systems pursuant to the Agreement, what is stipulated in this article furthermore applies.
- 12.2. In the absence of a delivery date expressly established by Parties, WSS Infocard Systems will render the Electronic Products available and ready for use as soon as possible.
- 12.3. The costs of the delivery of the Electronic Products are borne by Client.
- 12.4. All Electronic Products which WSS Infocard Systems delivers in the context of the Agreement remain the property of WSS Infocard Systems until the moment that Client has properly complied with all his payment obligations towards WSS Infocard Systems.
- 12.5. The risk of loss or damaging of the Electronic Products passes to Client at the moment when he has obtained the power of disposal of the Electronic Products.
- 12.6. Risk transfer as intended in article 12.5. also pertains if WSS Infocard Systems due to a circumstance which is attributable to the Client are not able to deliver the Electronic Products.
- 12.7. To the Electronic products a warranty period applies after deliver of three months, counted from the day on which the Electronic Products have been accepted by Client. During this period, WSS Infocard Systems guarantees the functioning of the matters in accordance with the specifications.
- 12.8. Client accepts that the Electronic Products only have the functionality and other characteristics as can be found by Client in the Electronic Products at the moment of delivery ("as is"), that is, including all visible and invisible errors and defects, unless established otherwise in writing.

Article 13. Installation of Electronic Products

- 13.1. If so agreed, WSS Infocards Systems will install and connect the Electronic Products at the location established in the Agreement. WSS Infocard Systems is authorised to refuse the installation of the Electronic Products at a certain location if in their professional opinion the installation is not possible and/or the proper functioning of the Electronic Products cannot be guaranteed. WSS Infocards Systems is authorised to bill the costs of installation to Client.
- 13.2. WSS Infocard Systems has the right to deploy third parties for the installation of the Electronic Products as intended in the preceding section.
- 13.3. Client will grant access to WSS Infocard Systems or the third party/parties deployed by WSS Infocard Systems to the designated location and provide the necessary assistance for the purpose of the installation of the Electronic Products.

Article 14. Non-disclosure

- 14.1. Parties will treat Confidential Information which they provide to each other before, during or after the implementation of the Agreement or which they process in the Services with confidentiality. Parties also impose this obligation on their staff as well as on third parties deployed by them for the implementation of the Agreement.
- 14.2. With regard to Confidential Information of WSS Infocard Systems, Client will:
- a) observe all reasonable measures for the safe keeping or storage of the Confidential Information, whereby it applies that he will apply at least the same level of security as he applies for his own Confidential Information;

- b) not use the Confidential Information for any other purpose than the established one (implementation of the Agreement);
- c) not to keep the Confidential Information under his control for any longer than is reasonably required for the execution of the established obligations and to render this information, including copies made, immediately after full compliance with the obligations referred to, to WSS Infocard Systems or otherwise, after a copy of the Confidential Information has been transferred to WSS Infocard Systems and WSS Infocard Systems has confirmed the proper receipt of it in Writing, to destroy it.

Article 15. Payment conditions

- 15.1. WSS Infocard Systems will send an invoice for all amounts owed and is thereby authorised to invoice in advance as well as electronically. If Client objects against (the amount of) an invoice, this does not suspend the payment obligation.
- 15.2. For all invoices a payment term of 30 days applies, unless the invoice states another payment term, or a different term has been established in writing.
- 15.3. If an invoice is not settled within the payment term, Client falls into default without any notice to that effect being required. In such case, WSS Infocard Systems has the right to entirely or partially suspend provision of the Services. WSS Infocard Systems is not liable for damage which Client suffers as a result.
- 15.4. In case of late payment, Client is bound, besides to payment of the amount due and the commercial interest coincided over it, to the full reimbursement of both extrajudicial and judicial collection costs, including the expenses for lawyers, legal experts, bailiffs, and collection agencies.
- 15.5. All claims of WSS Infocard Systems are immediately exigible if the bankruptcy of Client is granted, if Client files for or is granted suspension of payments, or if his company is liquidated.
- 15.6. All prices mentioned by WSS Infocard Systems are in euros and exclusive of VAT and other duties which are imposed by the authorities.

Article 16. Liability and force majeure

- 16.1. The liability of WSS Infocard Systems for damage as a result of a shortcoming in the fulfilment of the Agreement, an illegitimate act or otherwise is limited per event (whereby a series of consecutive events is considered a single event) to the amount (exclusive of VAT) which Client has paid on grounds of the Agreement over the course of six months preceding the arising of the damage.
- 16.2. WSS Infocard Systems is only liable for direct damage as a consequence of an attributable shortcoming in complying with the Agreement. By direct damage is exclusively intended all damage consisting of:
 - a) damage directly caused to physical items ("material damage");
 - b) reasonable and demonstrable costs which Client has had to sustain to urge WSS Infocard Systems to comply with the Agreement (again) properly, unless the defective performance cannot be attributed to WSS Infocard Systems;
 - c) reasonable costs to determine the cause and scope of the direct damage;
 - d) reasonable and demonstrable costs which Client has incurred to prevent or mitigate the direct damage, to the extent Client proves that these costs have led to the mitigation of the direct damage;
 - e) reasonable and demonstrable costs of having the Agreement implemented by a third party, if WSS Infocard Systems after warning of Client does not properly comply (again) with the reasonable term set in the warning.

- 163. Any limitation or exclusion of liability included in the Agreement does not apply if the damage is the result of (1) the wilful intent or deliberate recklessness of the management/directors of WSS Infocard Systems, or (2) death or physical injury.
- 164. Condition for any right to compensation for damage arising is that Client reports the damage to WSS Infocard Systems no later than 30 days after discovery in writing.
- 165. WSS Infocard Systems cannot be held to the fulfilment of any obligation from the Agreement if compliance is prevented as a result of force majeure. WSS Infocard Systems is not liable for any damage which is the result of force majeure.
- 166. Force majeure applies in any case in the event of power malfunctions, internet malfunctions, malfunctions of the telecom infrastructure, network attacks (including (d)dos-attacks), attacks with malware or other malevolent software, national upheavals, natural disasters, terror, mobilization, war, import and export restrictions, strikes, stagnation of supplies, fire, flooding and the event in which WSS Infocard Systems is not enabled by its suppliers to comply, regardless of the reasons why.
- 167. If a situation of force majeure has lasted for more than 90 days, both Parties have the right to cancel the Agreement in writing with immediate effect. The Services which in such case have been provided by WSS Infocard Systems before the situation of force majeure occurred and during the situation of force majeure are billed proportionately.
- 168. Parties establish that article 6:271 BW (Civil Code) and the effect of what is stipulated there are excluded in the following articles.

Article 17. Duration and end

- 171. The Agreement is adopted for the period indicated in the quotation or the offer of WSS Infocard Systems.
- 172. If the duration of the Agreement is not mentioned in the quotation or offer, the Agreement is considered to have been adopted for a period of 12 months, unless the Agreement ends through a task established beforehand.
- 173. If the Agreement is a continuing performance agreement, it can be cancelled, by means of a written confirmation, at the end of the term by both Parties. Taking note of the 3 months period and the conditions as described in the agreement. If such cancellation fails to occur, the Agreement is tacitly extended each time by the initial term of the Agreement.
- 174. WSS Infocard Systems may suspend or cancel the Agreement with immediate effect, without requiring a default notice, if Client is in default with regard to a substantial obligation under the Agreement.
- 175. WSS Infocard Systems may suspend or cancel the Agreement with immediate effect, without requiring a default notice, if the bankruptcy of Client is granted, Client files for or is granted suspension of payments, the activities of Client are terminated, or his company is liquidated.
- 176. In the event WSS Infocard Systems suspends compliance with the Agreement, WSS Infocard Systems retains its entitlements on grounds of the Agreement and the applicable legislation and regulations.
- 177. In the event that the Agreement is terminated, the claims of WSS Infocard Systems on Client are immediately payable (regardless of the reasons for the termination).
- 178. If the Agreement is rescinded, Client continues to owe the amounts already invoiced and no obligations of unwinding arise.
- 179. Client can only rescind the part of the Agreement which has not been implemented by WSS Infocard Systems yet.

Article 18. Price changes

181. WSS Infocard Systems may adjust the established prices at any time following changed rates of suppliers of WSS Infocard Systems which are passed on to Client proportionally.
182. WSS Infocard Systems can also increase the established prices and hourly rates once per contractual year by a percentage which is equal to the increase of the Services Price Index ('DPI') as established by the Netherlands statistics bureau CBS.
183. In the cases as described in article 18.1. and 18.2., Client does not have the right to cancel the Agreement. For other price changes, the procedure from article 19 applies.

Article 19. Modification General Conditions

- 19.1. WSS Infocard Systems has the right to modify or supplement these General Conditions. WSS Infocard Systems will announce the modification or supplement at least 30 days before its entry into effect by e-mail to Client.
- 19.2. If Client does not wish to accept the modifications or supplements, Client can file objection in a substantiated manner within 14 days after announcement, after which WSS Infocard Systems will reconsider the modification or supplement. If WSS Infocard Systems decides to insist on the modification or supplement, Client can cancel the Agreement in writing against the date on which the modification enters into effect.
- 19.3. Both Parties will grant their full collaboration in case of modifications or supplements to these General Conditions which are necessary due to new or amended legislation. Such modifications or supplements will be implemented through consultation between Parties, without Client having the possibility of cancelling the Agreement.
- 19.4. The procedure described in article 19.2. and 19.3. does not apply to modifications of minor importance. Such modifications may be implemented without announcement by WSS Infocard Systems, without Client having the possibility of cancelling the Agreement.

Article 20. Exit

- 20.1. After the end of the Agreement, WSS Infocard Systems keeps all data and information of Client for a period of 12 months. If Client has already complied with his payment obligations on grounds of the Agreement, WSS Infocard Systems will exert itself to provide a copy of these data and information.
- 20.2. The copy is provided in such current file format as is to be determined by WSS Infocard Systems. The reasonable costs involved in the copying of the files and information in conformity with article 20.1. are borne by Client.

Article 21. Other provisions

- 21.1. To the Agreement, exclusively Netherlands legislation is applicable.
- 21.2. To the extent it is not prescribed differently by rules of mandatory legislation, all disputes between Parties in connection with the Agreement will be submitted to the competent Netherlands court of law before the district where WSS Infocard Systems is established.
- 21.3. WSS Infocard Systems has the right to transfer his rights and obligations flowing from the Agreement to a third party which takes over WSS Infocard Systems or its business activities.
- 21.4. Client must inform WSS Infocard Systems forthwith in case of a change in name, (mail) address, e-mail address, phone number, and other information and data relevant for the implementation of the Agreement.
- 21.5. The logs and communications stored by WSS Infocard Systems are considered to be correct, unless Client provides proof to the contrary concerning.