

General terms and conditions of sale of NSI IT Software & Services

Article 1 - Object

These general terms and conditions alone are applicable between the parties, to the exclusion of any other condition, limitation, restriction or clause arising from customers, unless expressly agreed by NSI in writing. They therefore apply to all quotes, orders, deliveries of products and services provided by NSI, to all the agreements concluded between NSI and the customer, as well as to all services currently being provided but which are not the object of a specific agreement, unless expressly accepted by NSI in writing. The general terms and conditions of sale take precedence over the general terms and conditions of purchase of the customer.

When provisions specific to a contract or to a quote relate to a point governed by these provisions and the solutions adopted differ, the express provisions specific to the contract or to the quote concerned prevail.

Article 2 – Financial conditions

The financial conditions are explained in the quote or the agreement.

Unless expressly specified in the quote and/or in the contract, the prices are valid for services to be provided in Belgium.

The prices for contracted services are valid for 7.7-hour days during office hours (between 7.00 am and 7.00 pm). Additional tasks carried out at the request of the customer are invoiced at:

→ 150% of the hourly rate for services provided beyond daily working hours and/or outside office hours and/or on Saturdays;

→ 200% of the hourly rate for services provided on Sundays and on official public holidays in Belgium.

The prices indicated in the offer or in the agreement shall be subject to annual indexation, automatically and without formality, on 1 January of each year according to the increase in the official consumer price index.

For subscription-type orders or resource rentals, prices are based on the official rates of the publishers or provider at the time of the order. Any subsequent price changes will be reflected in the monthly invoices.

For all orders where the price is based on an official rate in dollars, the conversion rate will be adapted monthly on the first of the month according to the official rate published by the NBB.

Prices are expressed in Euros. Prices are exclusive of tax and will be increased by the legal taxes in force on the day of invoicing.

Article 3 – Terms of payment

The invoices issued by NSI for work, services or equipment supplied are payable in full on their due date, and without reduction, to one of the bank accounts indicated on NSI's invoices. If the customer notices a change in the number of the bank account, it should have this new number officially confirmed by NSI.

For any disputes to be admissible, these must be communicated to us in writing to our offices within thirty (30) days from the date of invoicing. An objection cannot in any case result in a delay in payment or a change in the payment terms.

Non-payment on the due date results automatically and without prior notice in:

- The immediate requirement to pay all outstanding sums, whatever the terms of payment agreed;
- The addition to the unpaid sums of interest on arrears of 1% per month, with a minimum of EUR 25, plus flat-rate compensation of 10% on the amount unpaid, each month that has started being due in full. Furthermore, NSI reserves the right to suspend the services to be provided until the unpaid invoices have been settled.

In the event of sale, it is explicitly agreed between the parties that the services and/or materials as well as their equipment shall remain the property of NSI until they have been paid for in full. Any payments made in advance shall remain granted to us as compensation for their use. The transfer of risks becomes effective from the time of delivery.

Any departure from the terms of payment must be the subject of an agreement in writing between the parties.

Article 4 – Transfer and sub-contracting

The parties cannot transfer the agreement without prior authorisation in writing from the other party.

However, if it considers this to be appropriate, NSI can sub-contract all or part of the services to be provided pursuant to the quote or the agreement, to affiliated companies or to third-party companies chosen by NSI.

Article 5 – Ownership and transfer of risks

In the cases where the agreement stipulates that the equipment will be the property of the customer, NSI remains the owner of the equipment until payment in full of the principal amount, additional costs, interest, taxes and costs. However, at the time of delivery, where appropriate, the risks shall be transferred to the customer when the equipment is delivered or when the delivery would have taken place if this could not take place for a reason beyond the control of NSI.

In the event of default of payment, bankruptcy, requests for delays in payment, the sale or liquidation of the customer or the seizure of one or more of the customer's assets, NSI has an irrevocable right to take back or arrange to have taken back the goods of which it is still the owner, at the place where they are. The same applies in the case of equipment being made available.

Article 6 – Deadlines

The deadline for the delivery of the equipment or for the provision of the services mentioned in the contract will be taken into consideration and adhered to insofar as possible by NSI. The deadlines are given for information purposes.

No compensation shall be due to the customer on account of a delay in the delivery of the equipment or in the provision of the services, whatever the cause of the delay, unless the customer establishes that the non-adherence to a reasonable deadline beyond the deadline communicated for information purposes is due to a serious fault on the part of NSI or the specific provisions agreed between the parties provide that the deadline stipulated is compulsory. In this case, compensation due by NSI to repair the damage established by the customer will be limited to a maximum amount equivalent to 10% of the price of the contract (net of tax).

The deadlines given for information purposes are, furthermore, automatically extended for a period equivalent to that during which NSI is late performing its tasks because of the absence of or insufficient cooperation of the customer.

Article 7 – Intellectual property

The intellectual property rights relating to any creation of any kind made by NSI in fulfilment of the agreement concluded with the customer remain, unless agreed otherwise and subject to payment in full of the price, the exclusive property of NSI or of the Author. In order to enable the customer to take advantage of the creation referred to by the object of the contract, NSI grants the customer a non-exclusive and non-transferable licence to use the creation in accordance with its normal intended use as defined in the contract, and solely for the purposes of internal use by the customer for its own requirements. By internal use, the parties mean use in order to meet the customer's own needs only, to the exclusion of use to meet the needs or requests of third parties, whoever they may be (customers, suppliers, sub-contractors or partners of NSI's customer).

NSI also reserves the right to use the lessons it has learnt from the study and from the provision of the services which are the object of the quote or of the agreement.

Unless otherwise stipulated, and subject to payment in full of the price, NSI retains ownership of all the preparatory documents of any kind whatsoever, including the source codes and functional analyses.

The customer does not acquire any right to the tools, methods, know-how used by NSI in the context of the contract or the quote.

In the case of the use of software or of any kind of IT tool developed by a third party company, no right of ownership is transferred to the customer even if the use of this software and/or IT tool is necessary to use the creations produced by NSI in fulfilment of the contract. It is the responsibility of the customer to acquire, at its own expense, a licence for the IT tool or software concerned. If the customer has, in fact, expressly requested this and subject to payment in full of the price of the licences by the customer, NSI could grant it a licence to use such a tool or software, but only within the limits of the terms of the licence for use that NSI has itself obtained from the third party concerned.

Insofar as is necessary, a reminder is given that NSI can freely reuse the ideas, concepts, methods, know-how or techniques developed when providing the services entrusted to it, including in order to offer services to companies working in the same sector as the customer.

In view of the fact that the development costs are calculated and apportioned over all of the services planned in the contract, if the agreement comes to an end prematurely because the customer fails to fulfil its obligations or because the customer wishes to terminate it (unless the customer establishes a serious fault on the part of NSI), the customer will not be able to obtain any licence of use regarding the elements already produced and/or delivered on the date of the said termination.

Article 8 – Confidentiality

Each of the parties undertakes not to disclose to third parties, use for its own benefit or for the benefit of third parties the documents, data, information or details communicated by the other party on the occasion of the fulfilment of the contract or of the quote or of which it has had knowledge or to which it has had access in the context of the agreement or of the quote and undertakes to ensure that its collaborators abide by these provisions.

Article 9 – Data protection - GDPR

Customer Data and Personal Data

(a) The Customer is responsible for the content of the Customer Data. The Customer warrants that the Customer Data and NSI's access to and processing of the Customer Data do not violate any laws and regulations and/or the rights of third parties.

(b) In particular, for personal data, the parties declare to respect and implement their obligations arising from the data protection legislation in force in Belgium, including Regulation 2016/679 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (GDPR).

(a) NSI has to take reasonable steps not to introduce viruses or code into the Customer's systems and infrastructure which NSI can reasonably know are malicious. The Customer must provide NSI with all the information concerning its systems and infrastructure to enable it to take the appropriate steps.

Security

(a) NSI shall take reasonable steps not to introduce into the Customer's systems and infrastructure any virus or code that NSI reasonably believes to be malicious. The Customer shall provide NSI with sufficient information about its systems and infrastructure to enable NSI to take appropriate action.

(b) Unless otherwise agreed in the Contract, the Customer is fully responsible for the security of its Data and undertakes to make the necessary back-ups to prevent loss and/or corruption of its Data. NSI is only responsible for back-ups explicitly provided for in the Agreement.

(c) In the event of loss or corruption of Customer Data as a result of the Services, NSI is only obliged to restore the most recent backup available. Under no circumstances will NSI be required to encode or reconstruct Customer Data.

Article 10 – Liability

Unless expressly stipulated in the quote and/or in the contract, the obligations assumed by NSI are always best-effort obligations.

Without prejudice to the other provisions of these general terms and conditions, any liability of NSI which may arise from the fulfilment of the quote or the agreement is expressly limited to one quarter of the sums invoiced in the twelve months preceding the date of the claim with a ceiling of one hundred thousand euros (EUR 100,000).

NSI declines any responsibility (i) in the case of indirect damage, including in particular any financial or commercial harm, loss of customers, profit or savings, any commercial problems whatsoever, any increase in costs and other overheads, loss of profit, loss of image, brand, any delay or disruption in the schedule of the project or of the activity of the customer, any loss of data, files or any computer programs and (ii) in the case of insufficient cooperation of the customer in fulfilling the contract (iii) in the case of intervention by a third party in the customer's computer system, unless the customer shows that this intervention does not affect any element of the system connected to elements covered by the disputed service provision by NSI (iv) in the case of claims from third parties.

The customer guarantees that the contents, information and work of any kind supplied by it to NSI in order to fulfil the contract may lawfully be used for this purpose and do not infringe the rights of third parties.

The customer takes care in particular to obtain the transfer of rights or authorisations required from the holders of intellectual property rights.

The customer undertakes to maintain the software delivered at the highest version level, the cost of purchasing new versions being borne by it.

Article 11 – Force majeure

Force majeure is any unforeseeable and unpreventable event, which is beyond the control of the parties and which makes it impossible or unreasonably costly to fulfil the contract in view of the conditions initially agreed between the parties.

In the case of force majeure, the obligations of the parties are suspended for as long as it is not possible to fulfil the contract. If this state of impossibility becomes permanent, the agreement shall be automatically terminated.

Article 12 – Non-solicitation of staff

For the duration of the contract and for a period of 24 months after the end of the contract, the Customer undertakes not to hire or to sub-contract directly or indirectly the staff who would have been charged with the task by NSI in the context of the contract binding NSI to its customer.

In case of non-compliance with this clause, the Customer shall have to pay NSI:

1. Fixed compensation of EUR 50,000
2. The cost of replacing the staff concerned (costs of hiring staff, training, knowledge transfer, etc.). The cost is fixed at a minimum of EUR 16,000. It is the responsibility of NSI to justify higher costs if it considers this necessary.

Article 13 – Extent and limits of the contract

The last contract and its annexes binding NSI to its customer, in all their written or printed provisions, constitute the entirety of the agreement reached between the parties, replace and cancel all proposals or written or verbal undertakings preceding them and any other communications between the parties regarding the content of this contract.

Article 14 – Applicable law and competent jurisdiction

The relations between the parties are subject to Belgian law.

Should it not prove possible to reach an amicable arrangement, any dispute relating to the validity, interpretation, fulfilment or non-fulfilment or infringement of the agreement shall fall under the sole jurisdiction of the courts of Liège, including proceedings involving third parties or multiple defendants.

Article 15 – Final provisions

The customer acknowledges that it has been fully informed by NSI as to the possibilities of use and specific limitations of the equipment and/or of the creations which are the object of the contract or of the quote. Consequently, the customer waives any claim against NSI as a result, in particular due to lack of consent.

The fact of not having exercised one of the rights included in these general terms and conditions or of not having required strict compliance by the customer with one of the aforementioned obligations or stipulations, will not constitute a waiver by NSI to subsequently require the application of this stipulation or obligation. A waiver of this kind shall not be effective unless it is made in writing.

Any cancellation of any of the clauses of these general terms and conditions shall not in any way affect the validity of the other clauses. Any clause deemed to be unwritten shall be replaced by another clause that reflects as closely as possible the meaning, aim and cost of the void clause, without being unlawful, invalid or impossible to implement.