

General Terms and Conditions of Mylette
(version 3.0)
English version¹

® Mylette is a lawfully deposited trademark.

1. Definitions

Contractor:

Mylette B.V. established and located in (3447GG) Woerden, the Netherlands, at the address: Korenmolenlaan 1 A, hereinafter referred to as 'Mylette' and its legal successors or a company or partner affiliated with Mylette that enters into the legal relationship with Client and has declared the General Terms and Conditions Mylette applicable.

Application Software:

The Application which provides functionality to users. This may be a (software) Mylette Product, a (software) Third Party Product or software of Customer or a third party which has been licensed to Customer.

As is:

The properties of the Product are not (fully) described and Client indicates to have sufficiently known and/or tested the properties of the Product and to take the Product as offered. Client buys for his own benefit and damage and the parties exclude a claim for error. The parties waive their right to invoke the provisions of Book 7:17 of the Dutch Civil Code in the case of an As is Delivery and waive the right to invoke or claim (partial) dissolution or annulment of that agreement in court after the (final) delivery.

Mylette Products and Services:

All products and services provided by Mylette, the related facilities and related work that do not originate from third parties and for which any intellectual property rights, industrial property rights and other rights are held by Mylette.

Back-up:

Reserve copies of digital data and/or files

Courses:

All courses, education programs, training and related activities.

Datacenter:

A facility where servers can be connected to networks, mainly the Internet. Part of the Infrastructure is located in one or more Data Centres.

Third Party Infrastructure:

That part of the Infrastructure which is managed and/or supplied by third parties through Mylette to Customer and over which Mylette cannot, in principle, exercise any control. This is a Third Party Product and Service.

Third Party Products and Services:

All products and services provided by Mylette, the resulting facilities and related work

¹ In case of significant discrepancy between translations of these general terms and conditions, the Dutch language version shall be considered the authentic version and prevail.

originating from third parties.

Documentation:

The (functional) description of Products and Services provided to Customer.

Fair Use:

The reasonably use by Client of the Products and Services.

Errors:

Reproducible failure of Products and Services to (fully) be in accordance with the Documentation.

Hosting:

Offering, Maintaining and providing access to web space to store information, images, or Application software, on the Mylette Infrastructure or Third Party Infrastructure which are located in Data Centres.

Mylette Infrastructure:

That part of the Infrastructure that is managed by Mylette in its Data Centre(s) and over which Mylette can exercise control.

Infrastructure:

The collection of information and communication technology facilities such as software and hardware including cabling used for data processing and/or telephony. This may include Mylette Infrastructure, Third Party Infrastructure, Client Infrastructure, and Public Infrastructure

Identification data:

Log-in-name, passwords, secret sharing, API keys and/or other codes.

Objectcode:

Computer programming code mainly in binary format. Object code is directly executable by a computer after processing, however, without reverse engineering, compilation or assembly.

Maintenance

Maintenance includes the provision of updates, including Documentation, of the Products and Services licensed to Customer which constitute a qualitative (e.g. Error correction) or functional improvement of the Mylette Products and Services provided.

Client:

The natural or legal person who has given Mylette the Assignment to deliver Products and Services.

Assignment (or Agreement, or Contract).

A legally binding agreement concluded between Client and Mylette, whereby Mylette undertakes to perform certain tasks or perform a particular assignment.

Procesdata:

The data entered within SaaS by the Client and/or the data entered by third parties.

Products and/or Services:

All Mylette Products and Services and/or Third Party Products and Services provided by Mylette, the resulting provisions and related work.

Public Infrastructure:

That part of the Infrastructure managed and/or provided by third parties over which Mylette cannot exercise any control. This includes the Internet.

Standard Software:

General basic software, which has not yet been adapted, set up, configured or implemented specifically for the Customer.

Support

Support includes giving verbal (telephone) or written (e-mail/service desk) advice, as well as answering requests from Client, regarding the use and operation of the Products and/or Services provided.

Sourcecode:

Computer programming code that can be represented in a format, readable and understandable to an intermediate-level programmer. It includes related Sourcecode system Documentation, comments and procedural codes. Source code does not include Object code.

Work Days:

Normal Dutch working hours (8.30-17.30 CET) and days (Monday to Friday) excluding national holidays.

2. Offer and Agreement

- 2.1. These general conditions apply to all offers and agreements whereby Mylette provides Products and/or Services of any kind to Client, even if these goods or services are not (further) defined in these conditions. Deviations from these general conditions are only valid if expressly agreed in writing.
- 2.2. All offers are without obligation, unless the offer expressly states otherwise in writing. Offers made by Mylette are based on the information and/or wishes provided by the Client.
- 2.3. Applicability of any purchase conditions or other conditions of the Client is expressly rejected.
- 2.4. In the event that any provision of these general conditions is void or annulled, the other provisions of these general conditions will remain in full force and Mylette and Client will consult to agree new provisions to replace the void or annulled provisions, taking into account as much as possible the purpose and meaning of the void or annulled provision.
- 2.5. Offers and proposals by Mylette may not be reproduced nor shown to third parties without Mylette's permission.
- 2.6. Each Agreement or Assignment is entered into by Mylette under the suspensive condition ("*opschortende voorwaarde*") that the Client - at the sole discretion of Mylette - proves to be sufficiently creditworthy to fulfil the Agreement.
- 2.7. An agreement between Mylette and Client for which no further duration has been agreed has a duration of 1 (one) year if the delivery relates to a Service, for which an amount is charged periodically. If this agreement is not or not terminated ("*opgezegd*") in a timely manner, continuation of this agreement takes place each time for the duration of 1 (one) year.
- 2.8. Termination ("*opzegging*") of the Agreement takes place by means of a registered letter received by the other party no later than 40 (forty) days before the extension of the agreement comes into effect.
- 2.9. Each of the parties shall be entitled to terminate all or part of the agreement by registered letter without judicial intervention through direct termination ("*opzegging*") , if the defaulting party continues to fail to fulfil its obligations even after receiving written summons setting a reasonable term within which to fulfil its obligations.
- 2.10. Furthermore, Mylette has the right, with immediate effect and without judicial intervention, by means of an extrajudicial declaration, to terminate the agreement and/or the offers in whole or in part by direct notice or to cancel them, without prejudice to its right to claim damages, if Client is a natural person in case of death of Client, if Client submits a

request for legal debt restructuring if bankruptcy or suspension of payments is applied for in respect of Client, or Client is declared bankrupt or granted a suspension of payments, or if Client's company is wound up or terminated, other than for the purpose of reconstruction or amalgamation of companies, or a conservatory and/or executory attachment is levied on a substantial part of its assets, or Client's company loses the free disposal thereof. In these cases, any claim by Mylette against Client is immediately and fully due and payable and does not render Mylette liable to the other party for damages in connection with such termination.

- 2.11.** After the end of the Agreement, for whatever reason, the Client can no longer derive any rights from the Agreement, with the exception of to the continuation of the obligations of the parties which by their nature are intended to continue after the end of an Agreement, such as, but not limited to, the obligations concerning property rights, confidentiality and non-competition clause.

3. Honorarium

- 3.1.** All prices are exclusive of VAT and any other government levies. The amounts due will be charged inclusive of VAT and any government levies.
- 3.2.** Mylette will charge the amounts due by Client monthly and/or within another term stated in the agreement to Client, properly specified. Client will pay the amounts due within 30 (thirty) days after the invoice date without being entitled to compensation, settlement or suspension, on any grounds whatsoever. Objections to the invoice must be brought to the attention of Mylette in writing and with good arguments within 30 calendar days after the invoice date. In the event of a dispute of (part of) the invoice, Client is not obliged to pay that part of the fee and/or the costs on which no agreement exists between the parties. As regards the undisputed part, this must be paid in the manner and within the term as described in this clause.
- 3.3.** If Client fails to meet any payment obligation, Client will be in default without any further notice or notice of default being required. Client owes Mylette the costs (including costs due for legal assistance provided by a lawyer or authorized representative), both in and out of court, relating to the collection of all that Client owes Mylette. Out-of-court collection costs amount to 15% of the amount due with a minimum of € 175 (one hundred and seventy-five euros). In any case, interest will be charged monthly on the amount owed by Client from the date on which Client is in default, at a percentage equal to the statutory commercial interest increased by 3 (expressed in %).
- 3.4.** Mylette has the right to suspend its activities and other obligations until full payment has been made, without prejudice to Client's obligation to meet its obligations.
- 3.5.** In the case of a Fixed Price agreement, the activities are performed for a previously agreed amount. If settlement is to take place on the basis of a subsequent calculation, this means that, before Mylette commences the agreed work, a global estimate can be made of the expected costs. After completion of the work to be carried out, all costs actually incurred in connection with the work will be charged. The Client is therefore aware that there is a possibility that the previously determined estimate may be lower than the costs actually incurred. If no method of settlement has been agreed in advance, work will be carried out on the basis of a subsequent calculation.

3.6. The prices agreed between Mylette and the Client are based, among other things, on the costs of electricity, salaries, social security contributions, materials, and travel and accommodation expenses, etc., as well as the exchange rate between the currencies used, as applicable at the time the agreement is concluded. Mylette is entitled to adjust the prices to these changes in the event of a change in one or more cost items (including Third Party Products and Services) and/or a change in the exchange rate, a change in the Consumer Price Indices (CPI), or the Service Price Index (DPI) J Information and communication. Mylette will increase its prices at least annually, on 1 January, based on the figures of the Service Price Index (DPI) J Information and Communication published by CBS on 1 January (possibly based on third quarter figures). Changes will be rounded up to a multiple of € 2.50. 3.7. Mylette will offer Client the opportunity to take note of any price changes. If Client does not agree to a price change, Client is only entitled to terminate the agreement by giving notice with effect from the date that the price change will take effect, if and as long as the total price increase during 1 (one) year exceeds the inflation figure published by CBS for the current year (or the previous year for price increases announced for the following year) by more than 5 points (expressed in %).

4. Payment

- 4.1. Payment must be made within 30 days after the invoice date. After the expiry of 30 days after the invoice date, the Client is in default.
- 4.2. Payments made by the Client always serve to settle in the first place all interest and costs due, and in the second place the oldest outstanding invoices, even if the Client states that the payment relates to a later invoice. Payment must be made without discount ("*korting*") or settlement ("*verrekening*").

5. Confidential information and non-competition

- 5.1. Mylette and Client mutually undertake to maintain the confidentiality of all data and information about each other's organisation, clients, files and Products and Services, of which the parties become aware when working for each other or for the benefit of Client's clients. Data and information may only be used for the performance of the agreement concluded between the parties.
- 5.2. Client acknowledges that all Products and Services originating from Mylette contain trade secrets of Mylette and/or Mylette's suppliers, and that Client will treat all Products and Services originating from Mylette as such.
- 5.3. Client and its Clients will not enter into any direct or indirect business, employment or other similar relationships with any employee of Mylette during and up to 12 (twelve) months after the termination or dissolution of the agreement, except with the written permission of Mylette. The foregoing applies accordingly to Clients of Client. Client must ensure that its Clients will comply with the aforementioned obligation.
- 5.4. In the event of a violation of the provisions of article 5.3. Client shall owe an immediately due fine of € 100,000 (one hundred thousand euros) per violation without further notice of default, without prejudice to Mylette's right to claim compensation for the full damage suffered.

6. Retention of property and rights ("*eigendomsvoorbehoud*")

- 6.1. Rights, such as but not limited to the (possible ownership) transfer of Products and Services, are granted to Client under the condition precedent ("*opschortende voorwaarde*") that Client pays the agreed fees in a timely and complete manner. If payment is not made, Client must return the Products and Services to Mylette at its own expense within one week after Mylette has instructed it to do so. All other legal remedies remain applicable.

7. Third Party Products and Services

- 7.1. Mylette is entitled to provide Third Party Products and Services or to involve Third Party Products and Services in fulfilling its obligations arising from the agreement. Mylette is not responsible for Third Party Products and Services, unless otherwise agreed in writing.
- 7.2. If Mylette provides Third Party Products and Services to Client, then in addition to these General Terms and Conditions, Mylette also applies to the agreement with the General Terms and Conditions of Third Parties.
- 7.3. Mylette grants rights to Third Party Products and Services under the conditions as described in the General Terms and Conditions of Third Parties.
- 7.4. Mylette does not perform Maintenance, Support or other services with regard to Third Party Products and Services, unless otherwise agreed in writing.
- 7.5. With regard to Third Party Products and Services delivered, Mylette provides:
- a. The service on Third Party Products and Services, under the same conditions as those stated in the General Terms and Conditions of Third Parties at most.
 - b. The guarantee for the term and under the same conditions as those stated in the General Terms and Conditions of Third Parties at most.
- 7.6. Repairs of Third Party Products and Services:
- a. Under no circumstances will replacement of delivered Third Party Products and Services take place, unless Client expressly requests this and pays the associated costs as an Advance.
 - b. All repairs are subject to handling costs. If repairs are carried out elsewhere than at Mylette, travel expenses, hourly wages and other associated costs will also be charged.

8. Third Party General Terms and Conditions

- 8.1. Third Party General Terms and Conditions that are declared applicable in these Mylette General Terms and Conditions will be sent to Client upon request, if available. The Third Party General Terms and Conditions will be made available in the same format and language as Mylette received them.
- 8.2. The Mylette General Terms and Conditions take precedence over the Third Party General Terms and Conditions unless otherwise indicated. In the event of a conflict between the Mylette General Terms and Conditions and the Third Party General Terms and Conditions, Mylette may declare the relevant conflicting provisions in the Third Party General Terms and Conditions inapplicable or applicable.

9. Risk transfer

- 9.1.** The risk of loss or damage to the items that are the subject of the Agreement shall pass to Client at the time when they are brought into the actual possession of Client or an assistant used by Client, even if right of ownership or right of use has not yet been transferred.

10. Intellectual or industrial property rights

- 10.1.** Mylette has the exclusive right to further develop the Mylette Products and Services and to make their use available to third parties by means of licenses.
- 10.2.** Unless there are Third Party Products and Services, for every Assignment carried out by Mylette, wherever and whenever, regardless of whether there is the delivery of an existing Product or a Product yet to be developed, all resulting intellectual property rights, industrial property rights and other rights remain with Mylette.
- 10.3.** Client acknowledges that all current and future intellectual property rights, industrial property rights, other rights and the registration and/or application of the aforementioned rights and/or similar rights for the entire term and any extensions or renewals thereto now or in the future will forever accrue to Mylette worldwide or will be transferred to Mylette.
- 10.4.** Client is not permitted to remove or change any indication regarding intellectual property rights, industrial property rights, other rights, brands and trade names from the Products and Services, or to have such actions performed by a third party.
- 10.5.** The intellectual property rights, industrial property rights and other rights of a Product, or a part thereof, can only be transferred to Client by means of a written deed ("akte"), if Mylette has these rights.
- 10.6.** If Mylette, Client or third parties make functional improvements or other changes to the Products and Services, the intellectual property rights, industrial property rights and other rights resting on the improved or changed Products and Services in this case remain unchanged with Mylette or the third party entitled. If the aforementioned rights do not rest with Mylette or a third party entitled, Client will ensure the transfer of the aforementioned rights to Mylette or the third party entitled free of charge.
- 10.7.** Mylette reserves all intellectual property rights, industrial property rights and other rights with regard to Course Material and/or Documentation that are provided. Client is expressly prohibited from reproducing this in any way, transferring it to third parties or lending it. Client must ensure that its employees and/or third parties will comply with the aforementioned obligations.

11. Cooperation / information obligation of Client

- 11.1.** Client shall always provide Mylette with all useful and necessary data or information for the proper execution of the agreement in a timely manner and shall provide all cooperation. Client shall guarantee the correctness of this data and/or other information.
- 11.2.** Client is responsible for the use and application in its organization of the equipment, software and services to be provided by Mylette as well as for the control and security procedures and adequate system management. Mylette shall make Identification data available to Client exclusively for use of Products and Services. Client shall handle this

Identification data with care. In the event of loss, theft and/or other forms of unlawful use, Client shall inform Mylette thereof, so that the parties can take appropriate measures.

- 11.3. Client shall bear all responsibility, liability and costs caused by the use of the Identification data, used and/or distributed/ by Client. Under no circumstances shall Mylette be liable for the misuse and/or unlawful use of the Identification data.
- 11.4. Client is not permitted to allow multiple persons to use the same Identification Codes without Mylette's prior written consent. Mylette may attach conditions to this consent.
- 11.5. If it can reasonably be suspected that Client's Identification data has been misused or used unlawfully, Mylette may give Client instructions that must be followed.
- 11.6. If it is established that the Identification data has been misused or that Client has not complied with the instructions referred to in this article, Client will immediately be in default.
- 11.7. If it has been agreed that Client will make software, materials or data available on information carriers ("gegevensdragers"), these will meet the specifications necessary for carrying out the work.
- 11.8. If data necessary for the performance of the Agreement are not, not timely or not in accordance with the agreements available to Mylette or if Client otherwise fails to meet its obligations, Mylette shall in any case have the right to terminate or dissolve the agreement or to suspend the performance of the agreement and shall have the right to charge the costs incurred as a result according to its usual rates.
- 11.9. If changes or new facts should occur in the meantime in data, information, wishes and/or requirements previously made available, Mylette shall at all times be entitled, in consultation with Client, to adjust the agreement to these new circumstances or to dissolve or terminate it by means of direct cancellation.
- 11.10. If Client makes functional improvements or other changes to the Products and Services (after first having received the required written permission from Mylette, as further set out in article 23.4), Client is obliged to communicate these changes to Mylette in cases where Mylette provides Maintenance, Support or other services with regard to the Products and Services provided to Client.
- 11.11. If Mylette performs activities on a location other than its own, Client will provide the facilities reasonably desired by Mylette, such as a workspace and telecommunications facilities, free of charge.

12. Back-ups

- 12.1. Client is responsible for making Backups in a timely manner. Mylette will, at the request of Client, make known the procedures that may be necessary for the securing of data and for making Backups.
- 12.2. Only if and to the extent that it has been expressly agreed in writing that Mylette will provide for the making of Backups in whole or in part, will Mylette make Backups. Mylette is in no case liable for these Backups with regard to, but not limited to, the complete or partial loss of Backups and/or Errors in the Backups or any other loss or unusable data. Client is at all times fully responsible for regularly checking and testing the integrity, readability and usability of the Backups. This also applies if Mylette restores a Backup for the benefit of Client, regardless of the reason for this restoration.
- 12.3. Client remains fully responsible for making Backups in advance if Client performs or has a third party perform actions that may lead to data loss with regard to the Products and

Services and/or the environments and/or equipment on which the Products and Services operate. Mylette is not liable for damage if Client has not complied with this article.

13. Delivery period

- 13.1. All (delivery) periods stated by Mylette and applicable to Mylette have been determined to the best of Mylette's knowledge on the basis of the information made known to Mylette and will be observed as much as possible;
- 13.2. (Delivery) terms are therefore not considered to be fatal terms (*"fatale termijnen"*) within which delivery must take place, but as terms within which Mylette will make effort to complete or deliver what has been agreed. If there is a possibility that any delivery period will be exceeded, Mylette and Client will consult as soon as possible about a new delivery period.
- 13.3. The exceeding of any applicable (delivery) period by Mylette never constitutes an attributable shortcoming (*"toerekenbare tekortkoming"*) on the part of Mylette. Mylette accepts no liability under any circumstances if a (delivery) period is exceeded.

14. Limitation of liability

- 14.1. Mylette's total liability will be limited to compensation for direct damage and then to a maximum of the compensation (excluding VAT) that Mylette has received from Client of the agreed price for that agreement (excluding VAT) with a maximum of € 25,000 (twenty-five thousand euros), whereby a series of related events is considered as one event.
- 14.2. If the agreement also consists of a long-term agreement (*"duurovereenkomst"*), with a term of more than 1 (one) year and Mylette's liability arises from this long-term agreement, the agreed price is set at the total of the compensation (excluding VAT) actually paid by Client to Mylette on the basis of the long-term agreement for 6 (six) months (being in the year in which the damage occurred) with a maximum of € 25,000 (twenty-five thousand euros).
- 14.3. Mylette has taken out insurance against damage. Mylette is in any case not liable for further damage and will not compensate for this further damage that Client may suffer under the agreement concluded with Mylette, however and on whatever grounds, including possible claims on Client by third parties, than is covered by this insurance and actually compensated plus Mylette's own risk, unless there is intent or deliberate recklessness.
- 14.4. Direct damage is understood to mean exclusively:
 - a. The reasonable costs incurred to determine the cause and extent of the damage;
 - b. The reasonable costs incurred to prevent or limit damage, insofar as Client demonstrates that these costs have led to limitation of damage.
 - c. The reasonable costs incurred to repair damage, insofar as Client demonstrates that these costs have led to repair of damage and Mylette, after written request to do so, cannot itself offer a timely solution to repair damage.
- 14.5. Mylette's liability for consequential damage is expressly excluded. Consequential damage is understood to mean damage other than direct damage such as but not limited to, lost profit, missed savings, destruction or loss of files and/or data, delay damage, loss suffered, damage caused by the inadequate provision of information and/or cooperation by Client, damage due to business stagnation or claims by third parties on Client.

- 14.6. Apart from the case mentioned in article 14, Mylette shall not be liable for any compensation, regardless of the grounds on which an action for compensation would be based.
- 14.7. Mylette shall only be liable if Client immediately and properly notifies Mylette in writing of default addressed to the management of Mylette, thereby setting a reasonable term for rectifying the shortcoming and Mylette continues to fail to fulfil its obligations after that term. The notice of default must contain a description of the shortcoming that is as detailed as possible, so that Mylette is able to respond adequately.
- 14.8. The condition for any right to compensation is that Client informs Mylette of the damage in writing by registered letter within 60 (sixty) days after the damage has occurred and takes the measures to limit the damage as much as possible.
- 14.9. Client indemnifies Mylette against all claims from third parties due to liability as a result of a defect in a product, system or service supplied by Client to a third party and which product, system or service partly consisted of what was supplied by Mylette.
- 14.10. Mylette is not liable for damage of any nature whatsoever, caused by Third Party Products and Services, which Mylette has supplied to Client. If possible, Mylette will transfer its rights to claim compensation from the supplier of the Third Party Product in question to Client.
- 14.11. Unless a service level agreement has been agreed upon that states otherwise, Mylette is not liable for damage of any kind resulting from the failure to provide Support, Maintenance and/or Warranty in a timely manner. Mylette is not liable for damage of any kind resulting from the fact that Mylette must comply with certain, changing and new legislation and other regulations.

15. Force Majeure

- 15.1. Neither party shall be obliged to fulfil any obligation if it is prevented from doing so as a result of a circumstance beyond its control, nor for which it is responsible under the law, legal act or generally accepted views. The aforementioned circumstances also include all circumstances beyond the control of Mylette, such as but not limited to defaults of suppliers of Mylette, Errors in Third Party Products and Services, fire, explosion, power failure, (D)Dos attacks, hacking, cracking or any downtime or unavailability due to unlawful acts by third parties and/or by (cyber)crime, (cyber)vandalism, the destruction, damage or rendering unusable by anyone of any automated work or any work for telecommunications, causing disruption to the operation or functioning of such work, or the thwarting by anyone of a safety measure taken with respect to such work, network disruptions, flooding, illness, the unavailability of one or more members of staff, strikes, accidents, government actions, the impossibility of obtaining a required permit or permission, material shortages, theft, war, terrorism, traffic disruptions and/or transport restrictions.
- 15.2. If the non-attributable shortcoming ("niet-toerekenbare tekortkoming") is of a temporary nature, Mylette may suspend the Agreement until the temporary situation in question no longer exists, without being liable for any compensation.
- 15.3. Mylette reserves the right, if a non-attributable shortcoming occurs, to claim payment for services already performed that Mylette had already performed before the non-attributable shortcoming became known.
- 15.4. If the *force majeure* situation has lasted longer than ninety days, the parties have the right to terminate the agreement by written dissolution. What has already been performed

under the agreement will then be settled proportionally, without the parties owing each other anything else.

- 15.5. Mylette also has the right to invoke force majeure if the circumstance that prevents (further) performance occurs after Mylette should have fulfilled its obligation.

16. Performance

- 16.1. Mylette will make every effort to perform the service with care, where applicable in accordance with the Agreements and procedures recorded in writing with Client.
- 16.2. If it has been agreed that the service will be provided in phases, Mylette is entitled to postpone the commencement of the services that belong to a subsequent phase until Client has approved the results of the preceding phase in writing.
- 16.3. If the Agreement has been entered into with a view to performance by a specific person, Mylette will always be entitled to replace this person with one or more other persons with the same qualifications.

17. Data traffic from Client

- 17.1. Mylette has no control over and/or insight into the content of the data traffic from and/or to Client. Mylette acts as a mere conduit. Mylette does not provide any guarantees regarding the content of data, including reliability and completeness.
- 17.2. Client is responsible for the content of data traffic originating from Client. Where applicable, the code of conduct as set out in article 25 applies to Client and its users.
- 17.3. Client indemnifies and holds Mylette harmless against any form of claim, complaint or lawsuit from a third party in connection with (the content of) the data traffic or the information originating from Client.
- 17.4. Notwithstanding the provisions of article 10, Process Data remains the (intellectual) property of Client. Client grants Mylette, free of charge, the perpetual right to use and edit Process Data. Process Data can only be made available to third parties if it cannot be directly traced back to Client.
- 17.5. Process data will in principle be stored for a maximum period of 3 (three) years as long as the agreement continues. After the end of the agreement, Mylette is not obliged to store Process data.
- 17.6. Mylette will cooperate in transferring Process data and/or other data to another Application if requested by Client. Mylette never guarantees that the existing Process data and/or other data can be transferred to another Application during the agreement and/or after the end of the agreement.
- 17.7. All costs associated with transferring Process data and/or other data to another Application at the request of Client are fully borne by Client.
- 17.8. Client acknowledges that it has ascertained that Mylette offers an appropriate level of security for network and information systems.

18. Mylette Maintenance & Support

- 18.1. The Mylette Service Level Agreement applies to Mylette Maintenance & Support, unless otherwise agreed in writing.

- 18.2. Support is in principle provided on the basis of a fixed amount per year.
- 18.3. If no Mylette Service Level Agreement has been agreed between the parties, Mylette will charge the Client for its activities that fall under Maintenance & Support, in accordance with article 7:405 paragraph 2 of the Dutch Civil Code.

19. General Data Protection Regulation ("GDPR") - Regulation (EU) 2016/679

- 19.1. If Client is to be regarded as the controller within the meaning of the General Data Protection Regulation (GDPR) and Mylette is to be regarded as the processor within the meaning of the GDPR for the benefit of Client, this article applies accordingly.
- 19.2. The Mylette Data Processing Agreement applies, unless otherwise agreed in writing.
- 19.3. Client acknowledges that the data processing as assigned to Mylette is lawful. Client also acknowledges that it has ascertained that Mylette has taken appropriate technical and organizational measures, including security measures. Client indemnifies Mylette against all claims for infringement of privacy that are related to the foregoing.
- 19.4. To the extent that Client is entitled to do so, Client expressly agrees to the inclusion of (personal) data of users in Mylette's personal registration for administrative and management purposes. This personal registration includes Identification data and Process data and is only accessible to Mylette. This data will not be provided to third parties within the meaning of the GDPR, except in cases where Mylette is obliged to do so by law or a court order.

20. Digitale Operational Resilience Act ("DORA") – Regulation (EU) 2022/2554

- 20.1. If the Contractor acts as a third-party provider of ICT services within the meaning of the Digital Operational Resilience Act ("DORA") – Regulation (EU) 2022/2554, this article applies accordingly.
- 20.2. Mylette is in possession of the ISO 27001 certification, of which it will provide evidence upon request.
- 20.3. Mylette will implement and test continuity plans with regard to the services to be provided, the Mylette Continuity Plan applies, unless otherwise agreed in writing.
- 20.4. Mylette will have up-to-date ICT security measures, tools and policies that provide an appropriate level of security for the provision of services to the Client. Mylette will annually perform appropriate security tests on all its ICT systems and services that support the services to be provided to the Client.
- 20.5. Mylette will take additional measures that may be necessary to immediately remedy all serious or critical defects that emerge from the security tests. Mylette will, to the extent reasonable, adopt the recommendations resulting from testing, article 18 applies accordingly to the activities in connection with the implementation of such additional measures.
- 20.6. Mylette will provide reasonable cooperation and participate in threat-led penetration testing (TLPT). Mylette will provide reasonable cooperation to the Client in all related aspects of the collaboration. The Client may request Mylette to make direct contractual agreements with an external tester, for the purpose of performing a pooled TLPT. Before Mylette participates in penetration testing, all parties involved will first provide written contractual guarantees regarding the TLPT test to be performed, Mylette is not obliged to participate

before an agreement has been concluded regarding the preconditions and guarantees regarding the TLPT test.

- 20.7.** The Client develops ICT security awareness programs and digital operational resilience training as mandatory modules in its training programs for personnel, in which Mylette may be involved where appropriate. Mylette will participate in the Client's training programs upon request. In the event of such participation, the time and location of the training and relevant participants will be agreed upon in consultation between the Client and Mylette. Mylette will make [one] representative available annually, at the Client's expense, for a maximum of 8 hours to participate in the Client's training courses.
- 20.8.** Mylette will cooperate with the Client's competent authorities and supervisors. Mylette will provide reasonable cooperation with audits by or on behalf of the Client and supervisors. The Client will inform Mylette of such audits in a timely manner. The parties will make further agreements regarding the execution of audits and record these agreements in writing before the commencement of such audits. The costs to be incurred by Mylette, including the time to be spent by Mylette or costs of Mylette itself, will be borne by the Client.
- 20.9.** Mylette will provide assistance to the Client in the event of an ICT incident related to the Services provided to the Client. An ICT incident is defined for the purposes of this provision as: a single event or a series of linked events that are not planned by the financial entity and that jeopardize the security of the network and information systems and have an adverse effect on the availability, authenticity, integrity or confidentiality of data or on the services provided by the financial entity, within the meaning of article 3 sub 8 DORA.
- 20.10.** Client may terminate the Agreement after consultation with Mylette in one of the following circumstances:
- a. a significant breach by Mylette of applicable laws and regulations or contractual terms;
 - b. circumstances that are identified during the supervision of the ICT risk for third parties and that are deemed to be able to change the performance of the functions provided through the Agreement, including material changes;
 - c. demonstrable shortcomings of Mylette with regard to its general ICT risk management and in particular with regard to the manner in which it guarantees the availability, authenticity, integrity and confidentiality of data, regardless of whether it concerns Personal Data or otherwise sensitive or non-personal data;
 - d. where the authority or supervisory authority competent for the Client can no longer effectively supervise the Client as a result of the terms of or circumstances relating to the relevant Agreement.
- 20.11.** Unless expressly stated otherwise in the Agreement, the costs of compliance by Mylette with the obligations specifically included for the Client in this article concerning the Digital Operational Resilience Act ("DORA") – Regulation (EU) 2022/2554 and the assistance to be provided shall be borne exclusively and fully by the Client.
- 20.12.** The Parties shall, to the extent necessary to comply with (new or additional) applicable laws and regulations related to the Digital Operational Resilience Act ("DORA") – Regulation (EU) 2022/2554, make further arrangements or include appropriate amendments to the Agreement, provided that Mylette is authorized to terminate the Agreement if the amendments in connection with such new regulations, instructions or directions are not acceptable to Mylette

- 20.13.** To guarantee the continuity, quality or portability of ICT services to the Client that support a critical or important function within the meaning of Article 30 paragraph 3 DORA, the Mylette Continuity Plan applies, unless otherwise agreed in writing.

21. Changes and additional work

- 21.1.** If Mylette has performed work or other services at the request or with the prior consent of Client that fall outside the content or scope of the Agreement, Client will reimburse Mylette for these activities or services at Mylette's usual rates. However, Mylette is not obliged to comply with such a request and may require that a separate written agreement be concluded for this purpose.
- 21.2.** Client accepts that the agreed or expected time of completion of the service provision and the mutual responsibilities of Client and Mylette may be affected by the activities or services referred to in Article 21.1.
- 21.3.** If a Fixed Price has been agreed for the service provision and the parties intend to conclude a separate agreement with regard to additional work or services, Mylette will inform Client in advance in writing about the financial consequences of such additional work or services. Client is deemed to have agreed to the performance of additional work and the associated costs if Client has allowed the additional work to be performed without first indicating in writing that he does not want additional work.

22. Maatwerk

- 22.1.** All assignments that consist partly or entirely of custom work will be settled on the basis of Fixed Price or against the actual time spent on Post-calculation (*"nacalculatie"*). Parties will specify in writing which Mylette Product will be developed and in what manner this will be done. Mylette will carry out the product development with care on the basis of the data to be provided by Client, with the correctness, completeness and consistency for which Client guarantees. Mylette can provide Client with an estimate prior to carrying out Custom Work, containing the initially expected work and costs. This estimate is only indicative and not binding for Mylette. Actual costs will be invoiced on the basis of the actual time spent. Mylette is entitled, but not obliged, to investigate the correctness, completeness and/or consistency of the data or specifications made available to Mylette and, if any inaccuracies, incompleteness or inconsistency is found, to suspend the agreed work until Client has removed the imperfections in question.

23. Software license

- 23.1.** Mylette grants Client the non-exclusive right to use the Products and Services, including the associated Documentation.
- 23.2.** The right of use is limited to the exclusive use of the Products and Services for own use on the processing unit agreed with Mylette and the number of users, servers and/or workstations (licenses) agreed with Mylette. If no further agreements have been made, the right of use is limited to the processing unit on which the Products and Services were first installed and the number of users (licenses) is limited to 1 (one) individual end user.

- 23.3.** The right of use for software Products and Services is limited to the Object Code. Rights to and the Source Codes themselves are not granted, unless expressly agreed otherwise in writing and/or unless the right of use concerns a reproduction that takes place in the context of loading, displaying or correcting Errors.
- 23.4.** Client is prohibited from copying, duplicating or modifying the (Custom) Products and Services in any way whatsoever, either by itself or through third parties, without first having received Mylette's written permission to do so. Client is prohibited from adding functionalities to (Custom) Products and Services.
- 23.5.** Client is permitted to make one cold backup of the Products and Services made available for security purposes, if a backup is not made available by Mylette. Client may not use the backup made for operational purposes, without Mylette's prior written permission.
- 23.6.** The right to use the Products and Services is not transferable to third parties (third parties also include parent, sister and/or subsidiary companies of Client).
- 23.7.** Client is not authorised to make the Products and Services available to third parties, whether or not for payment, under any title or in any way whatsoever (third parties also include parent, sister and/or subsidiary companies of Client).
- 23.8.** Reverse engineering, decompilation or any other way of adapting the Products and Services to a human-readable form by Client is prohibited, unless explicitly permitted by mandatory law.
- 23.9.** The right of use commences after payment has been made by Client and the other obligations incumbent on Client have been met.
- 23.10.** The scope of the right of use of Third Party Products and Services is determined by the Third Party General Terms and Conditions. Insofar as the foregoing does not deviate from the Third Party General Terms and Conditions, the foregoing applies accordingly.

24. Controls

- 24.1.** Mylette is entitled to incorporate technical restrictions and control mechanisms into the Products and Services in order to prevent and/or check that the agreed licenses are not exceeded.
- 24.2.** Furthermore, Mylette is entitled, as long as Client uses the Products and Services, to carry out unannounced checks, either by itself or through a third party, at the locations where the Products and Services are used. Client will provide all cooperation and access to this. If Client refuses cooperation or access to Mylette, Mylette is entitled to terminate the agreement with immediate effect by means of direct cancellation. In this case, Client is no longer entitled to use the Products and Services and is obliged to return all Products and Services and destroy any copies made within 30 (thirty) days upon Mylette's first request to do so.
- 24.3.** If the aforementioned checks or otherwise show that the agreed right of use is exceeded, Client must immediately purchase the number of missing licenses plus a fine of 25% on the additional amount to be paid. Amounts owed for Maintenance & Support for missing licenses will be charged to Client retroactively, up to the moment of the last delivery of the previously agreed number of licenses. Mylette also reserves the right to report this to the Software Alliance (BSA).

25. Code of Conduct

- 25.1. Client must use SaaS and/or other offered facilities in a responsible manner. It is prohibited to use SaaS and/or other offered facilities in such a way that:
- a. damage can occur in the systems of Mylette and/or third parties;
 - b. disruptions in use can occur.
- 25.2. Client will ensure that such damage and/or disruptions are not the result of misconfiguration on its part.
- 25.3. It is prohibited to use SaaS and/or other offered facilities for illegal practices and/or in violation of the Agreement. This includes, among other things, the following actions and behaviours:
- a. infringing the rights of third parties or making it possible to infringe the rights of third parties, such as but not limited to intellectual property rights and privacy rights;
 - b. not complying with the applicable legislation and/or other regulations in this regard;
 - c. spamming (the unsolicited distribution (or currently making it possible for third parties to distribute) of advertising messages and other communications);
 - d. storing/distributing (child) pornography;
 - e. causing danger to the functioning of computer systems or networks of Mylette or third parties and/or for the services via the network, in particular caused by sending excessive e-mails or other data, poorly secured systems or activities of viruses, Trojan horses or similar software.
 - f. sexual intimidation, discrimination and/or otherwise harassing people;
 - g. distributing or otherwise making available to third parties obscene, insulting and harassing material and/or other material of a similar nature;
 - h. threats;
 - i. storing and distributing viruses, worms and/or other destructive activities;
 - j. the unauthorized intrusion (hacking) of accounts, systems and/or networks of third parties and/or Mylette and/or the performance and/or omission of any other action that makes hacking possible.
- 25.4. Mylette reserves the right, at its own discretion, if required to do so by law or court order and/or if a third party points out to Mylette and/or there is a suspicion that the rights of a third party are being infringed by means of the SaaS, that the provisions of the General Terms and Conditions Mylette and/or the agreement are being violated and that the resulting obligations in this regard are not being fulfilled, are not being fulfilled properly or are not being fulfilled in full, to disable the use of the SaaS and/or the other facilities offered, to remove the relevant information and/or to suspend its obligations, until the obligations have been fulfilled.
- 25.5. Mylette and/or third parties shall never be liable for any damage suffered by Client and/or third parties of any nature whatsoever as a result of the measures taken by and/or on behalf of Mylette on the basis of article 25.4. The obligations to pay the agreed amounts shall remain fully applicable during the measures taken by and/or on behalf of Mylette under article 25.4.
- 25.6. If the seriousness of the actions and/or inactions of Client justifies this and/or these are continued despite the measures by and/or on behalf of Mylette, as set out in article 25.4,

Mylette shall have the right to terminate the agreement, without Mylette being obliged to pay any compensation in this regard or to refund any amounts already paid.

26. Education, Courses and training

- 26.1.** Registration for participation in a Course must be made no later than 2 (two) weeks before the start of the Course. If the desired Course is fully booked, a notification will be made.
- 26.2.** Mylette will send a written confirmation of the Course planned for Client immediately after receipt of the registration. For registrations that have been made verbally, the order confirmation is deemed to correctly and completely reflect the registration, unless a written objection is made within 3 (three) Work Days.
- 26.3.** Courses are provided at the then applicable Course rates. Mylette is entitled to charge the costs incurred by Mylette for, among other things, the rental of the Course room, the teaching materials, etc.
- 26.4.** Mylette reserves the right to cancel a Course due to a lack of the required number of registrations. In principle, Client will receive notification of such a cancellation no later than 1 (one) week before the start of the Course. Any Course Fees already paid will be refunded. Client may decide to participate in the Course at a higher Course Price. This will be discussed in consultation.
- 26.5.** Cancellation by Client is free of charge up to 4 (four) weeks before the start of the Course, after which 50% of the Course Fees due will be charged. If Client cancels 1 (one) week or less before the start, or after the start of the Course, Mylette reserves the right to charge 100% of the Course Fees due.
- 26.6.** Closed Courses are Courses provided for Client, in which only Client participates. Closed Courses can be provided at Mylette's location or at Client's location.
- 26.7.** Rates for closed Courses depend on the number of participants. If it subsequently appears that more or fewer participants have registered or participated than was assumed in the quotation, Mylette has the right to increase or decrease the Course Day Price.
- 26.8.** If private Courses are given on location at the Client, the Client must also provide the necessary facilities and space in accordance with article 11.11.
- 26.9.** Mylette reserves the right to refuse a participant access to the Course:
 - a. if amounts due have not been paid in full and/or on time before the start of the Course;
 - b. for reasons of business competition or other reasonable grounds for Mylette.

27. Governing law and dispute resolution

- 27.1.** The legal relationships and Agreements between Mylette and Client are governed by Dutch law. The parties expressly declare that the Vienna Sales Convention (CISG) does not apply.
- 27.2.** Disputes between the parties that cannot be resolved by consultation will be resolved by means of arbitration by the Foundation for the Resolution of Disputes in Organization and Automation ("*Stichting Geschillenoplossing Automatisering (SGOA)*"), in accordance with the arbitration regulations of the SGOA by one arbitrator. With the mutual approval of the parties, an attempt may be made to resolve the dispute prior to the arbitration by means of other dispute resolution facilities offered by the SGOA.

27.3. If the SGOA declares itself incompetent or if the parties jointly agree to this, disputes will be submitted to the District Court of Midden Nederland, sitting in Utrecht.

27.4. The foregoing will not, without waiving any right, form an obstacle for the parties to take provisional legal measures ("*conservatoire rechtsmaatregelen*") and/or to initiate summary proceedings, or to start debt collection proceedings at the District Court of Midden Nederland, location Utrecht.

28. Transfer of rights

28.1. The Agreement concluded between Mylette and Client and the rights and obligations arising from it cannot be transferred to third parties without Mylette's prior written consent.

28.2. Client grants Mylette the right in advance, without requiring Client's express consent, to transfer the entire agreement, or parts thereof, to:

- a. parent, sister and/or subsidiary companies;
- b. a third party in the event of a merger or acquisition of Mylette.

If this occurs, Mylette will inform Client thereof.

29. Changes to the general terms and conditions

29.1. Mylette is authorized to amend these general terms and conditions, or to revise them in whole or in part, which may result in (entirely) new general terms and conditions. The amended, revised general terms and conditions will apply unless a written objection is made to any amendment or revision within 30 (thirty) days after the date of the amendment or revision.

29.2. Mylette will notify the Client of the amended terms and conditions in a timely manner.