Riscure World General Product Conditions – 20191015

1   Scope of the Agreement
These General Product Conditions shall apply to any agreement and all other legal relationships connected with the provision of Product(s) (as defined below). The quotation and these General Product Conditions constitute the agreement between parties (hereafter: "the Agreement"). The Agreement shall be concluded between customer (hereafter: "Client") and Riscure B.V. (hereafter: "Riscure"). Any terms and conditions proposed or stipulated by Client shall not apply - not even in addition to these General Product Conditions - and any applicability is expressly excluded and rejected unless otherwise expressly agreed in writing.

2   Payment terms
The prices in the Agreement to which these General Product Conditions apply exclude VAT or any other local taxes that may apply.
The Client is responsible for importing the Products (as defined below) into its country and for paying any applicable import taxes. The payment schedule is specified in the Agreement.

3   Delivery and acceptance
The products, which includes both Software (as defined below), third party software and hardware (hereafter: "Products"), with the exception of SaaS products, are delivered Ex Works (shipper origin) (as defined in the Incoterms 2010), unless otherwise agreed in writing. These Products must be accepted within three weeks after delivery or Riscure must receive feedback from Client in writing, including a detailed description of the revisions that are desired before acceptance. Client shall not withhold acceptance in the case of a defect that is so minor that it does not impede the intended use of the Products. The acceptance of Products is deemed to have taken place when Client has started using the Products.

4   Ethical use & compliance with laws
The Products are designed for the purposes as described in the specifications set out in the Agreement. It is not permitted to use the Products for any illegal purposes. This includes, but is not limited to, breaking the security of a product with the aim to financially exploit the vulnerabilities that are detected.

5   Warranty
The software developed by Riscure and any other software provided by Riscure, including SaaS products which may also consist of training modules, but excluding third party software (hereafter: "Software") will perform materially according to the specifications set out in the Agreement during the term of the Agreement. The warranty for Software is limited to the functionality of the Software. The hardware provided by Riscure shall be free from material defects for a period of one (1) year from the original date of purchase, unless a deviating warranty period is agreed upon by the parties in writing. If the Products are determined to be materially defective during the warranty period, your remedy is limited to the repair or replacement of this product. Client's warranty rights with respect to third-party products or - software shall be limited to those rights that such third party makes available and that it allows Riscure to pass through to Client, if any.

6   Support
As part of the subscription license, Client is entitled to new releases of the Software and technical support, as identified in the quotation. Riscure closely monitors new security and security test methods in academia and in product innovation and continually develops new techniques in security. This may result in new releases which are shared with Client..

7   Confidentiality
For the purposes of the General Product Conditions, "Confidential Information" means all information disclosed by a party ("the Disclosing Party") to the other party ("the Receiving Party"), whether orally or in writing , that is designated as confidential or can reasonably be assumed to be confidential given the nature and character of the information and the circumstances of the disclosure. The source code of the modules that are included in the Software is deemed to be confidential. The Client agrees to hold information on methods, code and other knowledge that already exist in the Products in strict confidence and shall use the information only for the purpose of the Agreement. Both parties will take all reasonable measures to ensure safe preservation or storage with respect to the Confidential Information in whatever form, or on whatever kind of data medium. The Receiving Party hereby acknowledges that, due to the unique nature of the Disclosing Party's Confidential Information, any breach of its obligations hereunder would result in serious damage being sustained by the Disclosing Party.

The confidentiality clause does not apply to information which:
- At the date of disclosure to the Receiving Party or thereafter can be shown by the Receiving Party to be already generally available to the public and/or which comes into the public domain other than through an action or inaction by the Receiving Party (or any employee, agent, consultant or affiliate) in breach of the Agreement;
- Was lawfully in the Receiving Party's possession or known by the Receiving Party prior to receipt from Disclosing Party;
- Was lawfully disclosed to the Receiving Party by a third party who was in lawful possession of such information and who was not under any confidentiality obligations;
- Was invented or developed by the Receiving Party; or
- Is information output originating from the use of the Products.

8   Intellectual property

The intellectual property rights in the Products are owned by Riscure, or its third party licensors.
Subject to the Agreement and upon payment of the periodic license fee, that is specified in the quotation, Riscure grants Client a non-exclusive, temporary, subscription license to use, reproduce and modify (if applicable) the Software in the form delivered to Client. Client receives a non-exclusive, temporary, subscription license to use, reproduce and modify the source code of modules within the Software where such source code has been provided to this end by Riscure and in so far as this is applicable. At the expiration of the subscription term, the license to the Software, including the license to source code made available by Riscure, lapses and Client will permanently remove and delete all copies of the Software or return these to Riscure.
Riscure shall indemnify Client against any action at law based on the allegation that the Software infringe(s) any intellectual property right, provided that Client shall notify Riscure promptly in writing of the claim and give Riscure sole control over its defense or settlement. The Client agrees to provide Riscure with reasonable assistance in defending the claim, and Riscure will reimburse Client for reasonable out of pocket expenses that it incurs in providing that assistance. This obligation to indemnify shall

cease to exist if and insofar as the infringement concerned relates to (i) any modifications which Client has made in the Software or caused to be made therein by third parties, (ii) non-Riscure software; (iii) Client's combination of the Software with (or damages based on the value of) a non-Riscure product, data, or business process; (iv) the use or redistribution of the Software in violation of this Agreement; (v) Client's continued use of the Software after being notified to stop due to a third party claim; or (vi) Software or fixes provided free of charge.

9   Use restricted to Client

The license cannot be carried over to a third party. The Software shall only be used by the Client's employees. Any renting, leasing, lending, hosting or reproducing of the Software is prohibited.

10   Access controls in environment

Access to a workstation on which the Software is used must be limited to authorized personnel. The Client is responsible for putting in place adequate security controls to prevent the Software from being accessed on the workstation or via a network connection by an unauthorized individual.

11   Export

Client agrees and warrants that it will comply with all applicable national and international (re-)export control laws and regulations, such as but not limited to the Wassenaar Arrangement and end-user, end use and destination restrictions by U.S. and other governments related to Riscure Products, services, and technologies.

12   Termination

Parties shall, in any event, be entitled to immediately rescind the Agreement in the event that:
- The other party is in material breach of its contractual obligations and has not remedied such breach within thirty (30) days after receipt of a written notice of default from the other party; or
- The other party is declared bankrupt, is granted a suspension of payments or begins negotiations for a composition with its creditors or is otherwise insolvent.

Termination of the Agreement is solely possible as specified in the Agreement.

13 Liability

Riscure provides the Products to the best of its abilities and is not responsible for any consequences of misuse of the Products and any mistakes in the platform. The Products are not intended to generate evidence on the basis of results of automated tests. The Client is responsible for the correct interpretation of reports.

The limitations contained in the Agreement will not apply with respect to (i) Riscure's obligations under the Agreement to defend third party claims of intellectual property infringement in relation to the Software, and to pay damages resulting from any final adjudication (or settlement to which Riscure consents) of such claims, or (ii) Riscure's liability for damages resulted from gross negligence or wilful misconduct of Riscure's senior management or (iii) for damages caused in violation of mandatory applicable law or where liability cannot be excluded or limited under applicable mandatory laws.

14 Applicable law

The Agreement and any dispute connected thereto shall be governed by the laws of the Netherlands, without effect to its conflict of laws rules. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to the Agreement.

15 Resolving conflicts

Any dispute arising from the Agreement shall be submitted to the jurisdiction of the competent court of the country of the defendant. This choice of jurisdiction does not prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights or confidentiality obligations in any appropriate jurisdiction.

16 Severability

In the event any provision clause, sentence, phrase, or word in these General Product Conditions, or the application thereof in any circumstances, is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder hereof, or of the application of any such provision in any other circumstances. Any such provision held invalid, unlawful or unenforceable, shall be substituted by a provision of similar import reflecting the original intent of the provision to the extent permissible under applicable law.

17 Entire agreement

The Agreement constitutes the entire agreement of the parties with respect to the use of the Products. The Agreement may be modified only by means of a duly executed written amendment signed by the authorized representatives of both parties.