



GENERAL TERMS AND CONDITIONS

RADICALLY OPEN SECURITY BV

Chamber of Commerce 60628081

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What is this document?

These are the general terms and conditions (in Dutch: “*algemene voorwaarden*”) of Radically Open Security B.V. (ROS). This version of the general terms and conditions is dated 15 July 2014.

In the spirit of ROS' philosophy, ROS wants these general terms and conditions to be as understandable as possible. If you have any questions, feel free to ask for clarification.

What is Radically Open Security?

ROS is a private limited liability company under Dutch law located in Amsterdam, The Netherlands. It is registered at the Dutch Chamber of Commerce under no. 60628081.

To what do these terms and conditions apply?

These general terms and conditions apply to all agreements between ROS and the customer. ROS rejects any terms and conditions used by the customer. The parties can only deviate from these general terms and conditions in writing. These general terms and conditions are also intended to benefit any person employed or engaged by ROS during the performance of an assignment.

How does ROS agree on an assignment?

ROS wants both parties to have a clear picture of an assignment before it starts. This means there only is an agreement between ROS and the customer if ROS sends a written offer containing the key terms of the agreement and the customer subsequently accepts the offer. Communications other than the written offer do not form part of the agreement. ROS can rescind an offer until it is accepted by the customer.

What can the customer expect from ROS?

It is important to understand the limits of ROS' services. ROS does not (and cannot) give guarantees that something is secure. ROS instead has an obligation to make reasonable efforts (in Dutch: “*inspanningsverplichting*”) to perform the agreed services.

ROS will make reasonable efforts to perform the assignment in accordance with the planning set out in the offer (if any). If ROS expects it will not meet the planning, it will let the customer know without delay. ROS is not automatically deemed to be in default if it doesn't meet the planning.

ROS will make reasonable efforts to avoid damage to systems owned or operated by the customer, but it cannot guarantee that such damage will be avoided. ROS is not obliged to recover any data it deleted or amended in the course of the assignment.

What can ROS expect from the customer?

The customer will provide ROS with all means necessary to allow ROS to perform the agreed services. If ROS needs explicit permission from the customer to perform its services, for example when doing penetration tests, the customer gives this permission. The customer also warrants that it has the legal authority to give this permission.

How do the parties handle confidential information?

ROS and the customer will not disclose to others confidential information and personal data they receive from each other or gain access to in the course of an assignment. ROS has the right to disclose the information to persons engaged by ROS, but only if these persons have a similar confidentiality obligation vis-à-vis ROS. Any person to which this information or data is disclosed will only use this for the purposes following from the agreement. Both parties will take reasonable measures to maintain the confidentiality of this information and data, also with respect to persons engaged by the parties.

What does ROS do with vulnerabilities it finds in the course of an assignment?

If ROS in the course of an assignment finds a vulnerability which might affect the customer, it will report this to the customer. If a vulnerability might affect third parties as well, ROS retains the right to disclose this vulnerability also to others than the customer. It will only do so after having given the customer a reasonable period to take measures minimising the impact of the vulnerability, in line with responsible disclosure best practices.

What does ROS do with indicators of compromise it finds?

If ROS in the course of an assignment finds indicators of compromise, such as malware signatures and IP-addresses, it will report this to the customer. ROS retains the right to also publish this information in a publicly accessible database. It will only do so after it has given the customer the opportunity to object to the publication of

data which would negatively impact the customer.

Who owns the products developed in the course of the assignment?

ROS retains any intellectual property rights in products developed for an assignment, such as software and reports. ROS, however, wants to teach as many customers as possible 'how to fish'.

For software it developed, this means that ROS gives the customer a permanent, non-exclusive, transferable, sub-licensable, worldwide license to distribute and use the software in source and binary forms, with or without modification (very similar to the BSD-license). If ROS' software is based on other software which is provided under a license which restricts ROS' ability to license its own software (such as the GPLv3 license), the more restrictive license will apply.

For other products it developed, such as reports and analyses, ROS gives the customer the same license, but this license is exclusive to the customer and does not contain the right to modification. The latter condition is intended to ensure that the customer will not change ROS' products, such as reports and analyses. ROS retains the right to reuse these products, for example for training and marketing purposes. ROS will remove any confidential information from these products before publication.

ROS retains title to any property transferred to the customer until all outstanding payments by the customer have been done in full (in Dutch: "*eigendomsvoorbehoud*"). ROS also only gives a license after all outstanding payments have been done in full.

Who will perform the assignment?

ROS has the right to appoint the persons who will perform the assignment. It has the right to replace a person with someone with at least the same expertise, but only after having consulted with the customer. This means that section 7:404 Dutch Civil Code (in Dutch: "*Burgerlijk Wetboek*") is excluded.

Due to the nature of ROS' business, ROS regularly works with freelancers for the performance of its assignments. ROS has the right to engage third parties, including freelancers, in the course of the performance of an assignment.

What happens when the scope of the assignment is bigger than agreed?

ROS and the customer will attempt to precisely define the scope of the assignment before ROS starts. If during

the course of the assignment, the scope turns out to be bigger than expected, ROS will report this to the customer and make a written offer for the additional work.

How is payment arranged?

All amounts in ROS' offers are in Euros and excluding VAT and other applicable taxes, unless agreed otherwise.

For assignments where the parties agreed to an hourly fee, ROS will send an invoice after each month. For other assignments, ROS will send an invoice after completion of the assignment, and at moments set out in the offer (if any). The customer must pay an invoice within 30 days from the invoice date.

ROS may, prior to an assignment, agree on the payment of a deposit by the customer. ROS will settle deposits with interim payments or the final invoice for the assignment.

If the payment is not received before the agreed term, the client will be deemed to be in default without prior notice. ROS will then have the right to charge the statutory interest (in Dutch: "*wettelijke rente*") and any judicial and extrajudicial (collection) costs (in Dutch: "*gerechtelijke- en buitengerechtelijke (incasso)kosten*").

If the customer within two weeks before the start cancels or delays the assignment, ROS is entitled to charge the customer 50% of the agreed price.

For what can ROS be held liable?

Any liability of ROS resulting from or related to the performance of an assignment, shall be limited to the amount that is paid out in that specific case under an applicable indemnity insurance of ROS, if any, increased by the amount of the applicable deductible (in Dutch: "*eigen risico*") which under that insurance shall be borne by ROS. If no amount is paid out under an insurance, these damages are limited to the amount already paid for the assignment, with a maximum of EUR 10.000.

Each claim for damages shall expire after a period of one month from the day following the day on which the customer became aware or could reasonably be aware of the existence of the damages.

To make things clear, ROS is not liable if a person associated with ROS acts contrary to any confidentiality or non-compete obligation vis-à-vis the customer or a third party, this person might have agreed to in another engagement.

What happens when third parties lodge a claim or initiate criminal proceedings against ROS?

The customer shall indemnify ROS and any person employed or engaged by ROS for any claims of third parties which are in any way related to the activities of ROS and any person employed or engaged by ROS for the customer. The customer shall reimburse to ROS and any person employed or engaged by ROS all costs of legal defence and all damages in relation to these claims. This provision does not apply to the extent a claim is the result of the intent or recklessness (in Dutch: "*opzet of bewuste roekeloosheid*") of ROS or a person employed or engaged by ROS.

Should a third party lodge a claim against ROS or any of the consultants it engaged or employed as a result of the performance of the assignment for the customer, then the customer will co-operate fully with ROS in defending against this claim, including by providing to ROS any evidence it has which relates to this claim. Should the public prosecutor initiate an investigation or criminal proceedings against ROS or any of the consultants it engaged or employed as a result of the performance of the assignment for the customer, then the customer will also co-operate fully with ROS in defending against this investigation or proceedings, including by providing any evidence it has which relates to this investigation or these proceedings.

When is this agreement terminated and what happens then?

Each of the parties may terminate the agreement wholly or partly without prior notice if the other party is declared bankrupt or is being wound up or if the other party's affairs are being administered by the court (in Dutch: "*surséance van betaling*").

When can ROS not be expected to perform the assignment?

In the case of force majeure (in Dutch: "*overmacht*") as a result of which ROS cannot reasonably be expected to perform the assignment, the performance will be suspended. Situations of force majeure include cases where means, such as soft- and hardware, which are prescribed by the customer do not function well. The agreement may be terminated by either party if a situation of force majeure has continued longer than 90 days. The customer will then have to pay the amount for the work already performed *pro rata*.

Which law applies and which court is competent?

Dutch law applies to the legal relationship between ROS and its customers. Any dispute between ROS and a customer will be resolved in the first instance exclusively by the District Court (in Dutch: "*rechtbank*") of Amsterdam, The Netherlands.