

# Creditsafe Nederland B.V.

## Terms and Conditions

### 1. Agreement

- 1.1. This is an Agreement between You and Creditsafe Nederland B.V. (here after "Creditsafe") regarding the use of the Creditsafe Service.
- 1.2. You and Creditsafe can individually be referred to as a "**Party**" and collectively as the "**Parties**". Further, capitalized terms, unless otherwise defined, shall have the meaning attributed to them in Clause 2.1 herein.
- 1.3. The terms and conditions set out in this Agreement will apply to every offer, quotation and agreement between You and Creditsafe, unless these general terms and conditions are not deviated from expressly by the Parties in writing.
- 1.4. By signing this Agreement or by accessing or using the Service You are accepting:
  - 1.4.1 to be bound by our terms and conditions contained in this Agreement and posted on our website [www.creditsafe.com/nl](http://www.creditsafe.com/nl) and to expressly reject the applicability of any purchase or other conditions of You or your company;
  - 1.4.2 all details contained on your order confirmation and invoice.

### 2. Definitions

- 2.1. In this Agreement (including the order confirmation) the following terms, unless the context otherwise requires, have the following meanings:

"**Agreement**": this Agreement between Creditsafe and You including the order confirmation;

"**Alliance Partner**": third party suppliers of information;

"**Company Reports**": reports about companies or/and company directors;

"**Creditsafe Country Search**": the ability to access Creditsafe's data feed across key European companies allowing customers to obtain Company Reports and access to risk tracker;

"**Package**": access to Company Reports, Director Reports and Risk Tracker capped at 49,999 reports per annum;

"**Information**": all information, materials, data, and/or databases made available to you through the Creditsafe website ([www.creditsafe.com/nl](http://www.creditsafe.com/nl)) or other networks connected to the website and all information, materials, data, and/or databases otherwise made available to you by Creditsafe and/or its Alliance Partners;

"**International Gateway**": the ability to send for and obtain a report on companies across a number of countries;

"**Media Solutions**": ability to search for news articles concerning companies and directors across the internet;

"**Open Access Reports**": access to a set number of company reports and or risk tracker;

"**Prospects**": the ability to export business records to use in telemarketing or direct marketing campaigns;

"**International Monitoring**": the ability to monitor changes that may occur in a company or director and being informed of the same through emails or online websites;

"**Intellectual Property**": royalties (including personality rights) source codes, neighbouring rights, database rights, trade secrets, knowhow, patents, rights to models and drawings, trade name and trade mark rights, rights regarding topographies of semiconductor products, utility models rights in the broadest sense and all other Intellectuals property rights and coinciding rights;

"**Service**": the service that is specified in the order confirmation and further includes all services provided to You by Creditsafe pursuant to this Agreement or in connection therewith. The Service provided to You may include one or more of the following:

- (i) Creditsafe service (which provides information on and assessment of the creditworthiness of third parties via the internet) and/or;
- (ii) Media Solutions (the media search engine) and all materials and information provided under all of the above;

"**Standard Price**": the standard price for the Services as indicated on the order confirmation;

"**AVG**": the *Algemene Verordening Gegevensbescherming* (Dutch Personal Data Protection Act);

"**You**": The legal entity or natural person, its representative(s), authorized agent(s), its successor(s) in title and its legal successor(s), who has entered into an agreement with Creditsafe.

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#### 3. Agreement Period

- 3.1. The Agreement shall be in force for the term set out in the order confirmation.
- 3.2. You agree that Creditsafe has the right to contact You during the agreement period, as specified in article 3.1, regarding new developments and products.

#### 4. Performance of the Agreement

- 4.1. Creditsafe will perform the Agreement to the best of its knowledge and ability.
- 4.2. Creditsafe will be entitled to request an advance payment from You and will only be obliged to perform or continue performance after You have made this advance payment.
- 4.3. From time to time Creditsafe may make alterations to the data or Services that You enjoy. Creditsafe will take all reasonable steps to inform You of these changes with as much advance warning as possible.

#### 5. Quotations, Charges and Payment

- 5.1. Quotations issued by Creditsafe will have a validity period of no longer than 30 days, unless stated otherwise. Creditsafe will only be bound to quotations if the acceptance of such is confirmed by You in writing within 30 days, unless stated otherwise.
- 5.2. With consideration to Creditsafe providing You with the Service, materials and information, You agree to pay the amount specified in your order confirmation and/or invoice on the times and dates specified therein. Unless otherwise specified in the order confirmation and/or invoice all payments must be made within 21 days of invoice date.
- 5.3. If You fail to pay the amount(s) specified on the order confirmation and/ or invoice and or any other amount due pursuant to the Agreement in full on the times and dates specified therein, You will be in default by operation of law and all the amount(s) outstanding will become due with immediate effect. Such outstanding amount(s) will then carry interest at an annual rate of 2% above the statutory interest rate. Interest shall accrue on a daily basis from the due date until the date of actual payment in full, including accrued interest, notwithstanding any pending trial or (court) judgment.
- 5.4. If You are in omission or default in fulfilling your obligations on time, all reasonable costs for obtaining settlement out of court will be payable by You. In that case, You will in any event owe collection costs conform the Dutch law: Wet Incasso kosten (WIK).
- 5.5. The administration of Creditsafe shall, save for manifest error, be conclusive as to the amounts of principal and other sums due from time to time by You to Creditsafe.
- 5.6. You agree that Creditsafe may review the Standard Price and/ or the price indicated on your order confirmation for the Service. Any price increase would only come into effect at the time of contract renewal or upon the start of a new agreement. Creditsafe will give You one month's notice of any increase to the Standard price and at least two months' notice of said increase before the renewal of each twelve month Agreement period.
- 5.7. All prices referred to in this Agreement are exclusive of Dutch VAT (BTW) or other similar turnover taxes. Such taxes are payable together with the amounts that the taxes relate to.
- 5.8. If You shall be declared bankrupt or shall be granted moratorium (*surséance van betaling*) or a resolution for the dissolution or liquidation of your company shall have been adopted or if You shall be in default with respect to any of your obligations hereunder, then, in any of such event, the principal of the amount outstanding to Creditsafe under this Agreement and any interest accrued thereon shall be immediately due and payable without presentment, demand, protest or notice of any kind.

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### 6. Creditsafe Proprietary Rights

- 6.1. All Intellectual property rights, resting on developed and provided products and/or services, by Creditsafe, in lieu to the Agreement, remain solely to Creditsafe and/or third parties from whom Creditsafe has received user rights. In so far necessary for the use by You, of the by Creditsafe provided products and/or services, Creditsafe provides to You a written limited, non-exclusive, non-transferable – unless otherwise agreed in writing – and non-sub-licensable right to make use of the Intellectual property rights of those products and/or services.
- 6.2. In the case that Creditsafe is willing to commit to the transfer of an Intellectual property, such a commitment and transfer can only be executed explicitly in writing.
- 6.3. If Parties agree in writing that a right of Intellectual Property with regard to specific software, data files, equipment or other items will be transferred to You, a split right of Intellectual Property arises. The foregoing means that the right or the possibility of Creditsafe is not affected by the components, general principles, ideas, designs, algorithms, documentation, documents, works, programming languages, protocols, standards and the like that underlie such development without any limitation to continue to use and/or exploit for other purposes. Nor does this split Intellectual Property right affect the right of Creditsafe to make developments for itself or a third party that are similar or derived from those that have been or are being made for You.
- 6.4. Creditsafe retains the right to add or remove its company name on all provided materials and products. In case Creditsafe has added its marks on provided products and/or services, which indicate Creditsafe's ownership of Intellectual property, You are not allowed to remove or alter these marks without prior written permission by Creditsafe.
- 6.5. Even if the Agreement does not explicitly foresee in Creditsafe's competency, Creditsafe is permitted to utilize technical provisions to ensure the protections of its database(s), equipment, data files and similar property, in relation to the agreed limitation of content and/or duration of the right to utilize said objects and/or property. You are never permitted to remove or evade such provisions.
- 6.6. By accepting the Agreement You guarantee Creditsafe that no rights of other parties conflict with Your provision of data files and other records to Creditsafe. You indemnify Creditsafe from any claim of a third party, which is based on the motion that this provision, use, adaptation, installation or incorporation infringes on that third party's rights.
- 6.7. Unless agreed otherwise in writing, all texts, reports, recommendations, agreements, software and other materials or (electronic) files, which were produced for the Agreement or preceding quotation, remain the property of Creditsafe, regardless whether these have been made available to You or third parties.
- 6.8. After termination of the Agreement, neither You or Creditsafe have an obligation to each other to save the used data.

### 7. Data protection

- 7.1. For the purpose of this Agreement "data controller", "personal data", and "processing" have the definitions contained in the Data Protection Legislation AVG.
- 7.2. This clause sets out the framework for the sharing of personal data between the parties as independent data controllers.
- 7.3. You are responsible for establishing the lawful basis for processing personal data obtained pursuant to use of the Services and maintaining compliance with the Data Protection Legislation AVG in connection with such data.
- 7.4. You acknowledge that accessing personal data through the use of the Services is only permitted where the You have a lawful basis for doing so and You warrant that it shall only request personal data where You have a lawful basis for doing so.
- 7.5. You agree that You shall only access and use the Services for the purpose of credit checking, prospecting, direct marketing, know your customer checks, compliance, data verification and enhancement, debtor trace and other lawful business due diligence purposes.
- 7.6. You acknowledge that it is its duty to record and demonstrate the existence of its lawful basis for processing.
- 7.7. Where You use the International Monitoring service, Creditsafe will inform You by email whenever there is a relevant change in the data monitored. You shall stop the monitoring service for monitored data when You cease to have a lawful basis of processing that data.
- 7.8. Where You provide Creditsafe with data or information which includes Personal Data to enable Creditsafe to provide the International Monitoring service and/or the data cleanse and append service and/ or the 3D Ledger service, You warrant that it has a lawful basis for doing so and that it has complied with AVG requirements including but not limited to the transparency requirements set out in Articles 13 and 14 of the AVG as applicable.
- 7.9. For the purpose of uploading and downloading data, including but not limited to International Monitoring, you are obliged to at all times specify an e-mail address maintained by You, which prevents data from ending up outside your secure (server) environment . Also during the further use of the Service you ensure that data does not fall outside of your management or secure environment.

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- 7.10. If Creditsafe determines that You do not act in accordance with the provisions of Article 7.5, Creditsafe reserves the right, conform Article 4.3, to, at its own discretion, adjust, update, change or take other measures with regard to the Terms and Conditions and / or the Service.

### **8. Your Obligations and Conduct**

- 8.1. You agree to use the Service solely within the Netherlands and for your own business purposes and to abide by all laws and regulations applicable to your use of the Service and not withstanding foregoing to comply in all respects with the AVG, including obtaining consent before searching an individual (where applicable).
- 8.2. This agreement is for the agreed upon number of users. The use of the services provided under the terms of this Agreement is limited to the agreed upon number of designated users. The use of the service by more than the agreed upon number of individuals, either simultaneously or otherwise will require the provision of additional licenses in accordance with (financial) conditions, as stipulated in the Agreement.
- 8.3. The Service made available to You is provided solely for your own use and You will not transfer, assign, sell, sub-lease, sub-licence, or in any other way transfer or assign your access or use of the Service (or any part or facility of it) or any of your rights or obligations under this Agreement to any third Party, or attempt to do so, unless it is expressly permitted by Creditsafe in writing.
- 8.4. You will not:
- (i) use the Information fraudulently, in connection with or for purposes of a criminal offence, or otherwise unlawful ends, nor attempt to gain unauthorised access to the Information through any means whatsoever;
  - (ii) modify any of the Information;
  - (iii) or reproduce, publish in any form of media, distribute, sell or transfer any of the Information provided in the Service (including prospect data) to or for any third party or incorporate it into any product or service made available to third parties.

### **9. Password and Security**

- 9.1. You agree that You are responsible for maintaining the confidentiality of your password and account details and are fully responsible for all activities using your password or account. You agree to immediately notify Creditsafe of any unauthorised use of your password or account and agree to exit your account at the end of each session.

### **10. Obligations, Warranties and Limitation of Liability**

- 10.1. The Information that You are provided with is collated from public sources that are out of Creditsafe control. Whilst Creditsafe aims always to maintain a quality fully operative service, the Service and Alliance Partner services are nonetheless provided on an "as is", as available basis without warranties of any kind, whether express or implied.
- 10.2. Specifically Creditsafe gives You no warranty or assurance about the contents of the Service. Whilst Creditsafe endeavours to maintain the accuracy and the quality of the Service, they may be incorrect or out of date. Therefore any use You make of the Service is at your own risk.
- 10.3. Creditsafe disclaims all liability, including but not limited to all liability in contract (including negligence) or otherwise in connection with the Service and/or Alliance Partner service, for any indirect, incidental, third party, special or consequential loss, loss of profit, revenue, savings or data which may result from the use, delays in use, or inability to use the Service.
- 10.4. Creditsafe entire liability in respect of all claims arising out of or in connection with this Agreement or its subject matter in any 12 month period (considered retrospectively from the date on which the course of action arose) shall not exceed an amount equal to the sums payable by You to Creditsafe in respect of that 12 month period.
- 10.5. Any claims made by You must be submitted within one year of the discovery of the damage; failure to do so will result in the forfeiting of your rights.
- 10.6. Notwithstanding any other term of this Agreement Creditsafe does not limit or exclude liability for damages that arise from its gross misconduct or intention.

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### 11. Indemnity

- 11.1. You agree to indemnify, defend and hold Creditsafe, its parents, subsidiaries, affiliates, directors and employees harmless from any loss, cost, damage, claim or demand, including reasonable legal fees, made by any third party or incurred or suffered by Creditsafe or its parents, subsidiaries, affiliates, directors or employees in connection with your use of the Service in breach of this Agreement or any negligence.
- 11.2. You agree to indemnify Creditsafe from all costs, claims, losses, damages, or awards which Creditsafe may sustain or incur as a result of any breach by You of the provisions of the AVG.
- 11.3. You agree to indemnify Creditsafe from all costs, claims, losses, damages, or awards which Creditsafe may sustain or incur as a result of any breach by You of intellectual property rights of any third party to materials or data issued by You to Creditsafe, which are used during the performance of the Agreement.

### 12. Force Majeure

- 12.1. Creditsafe will not be liable for failure to perform any obligation under this Agreement if such failure is caused by the occurrence of any unforeseen contingency or circumstance beyond the reasonable control of Creditsafe, including internet outages, communications outages, fire, flood, war, acts of God or change of law, including the AVG and related rules, regulations, case law and prevalent opinion and interpretation.
- 12.2. Creditsafe may invoke force majeure if the circumstances preventing fulfilment, or further fulfilment, arise after Creditsafe should have fulfilled its obligations.

### 13. Additional Conditions in respect of Media Solutions

- 13.1. Creditsafe is not responsible for the quality or availability of the content produced by the sources. Should any of the Media Solutions service and content be deemed to be infringing any law or right of a third party, Creditsafe has the right to remove the infringing material without obtaining your consent. Creditsafe will be entitled to take all such steps that it considers to be necessary for the purpose of bringing an end to such infringement. Creditsafe is not liable for your negligence or misuse of the Media Solutions service or content from third parties. Where access to websites require payments you will be responsible for paying the same.

### 14. Termination

- 14.1. Creditsafe may, with immediate effect and without notice, terminate the Agreement or suspend access to the Service if:
  - (i) You do not fulfil your obligations under the Agreement;
  - (ii) Creditsafe learns of circumstances that give it reasonable grounds to believe that You are in breach of any provision of the Agreement; or
  - (iii) Creditsafe learns of circumstances that give it reasonable grounds for fearing that You will not fulfil your obligations hereunder.

### 15. Effect of Termination

- 15.1. On termination, You must take reasonable steps to delete any information and materials provided by the Service, or any part of the website copied to any hard disk or other permanent storage device and are not allowed to make any further use of such information and materials provided by the Service.
- 15.2. Upon termination of the Agreement Clauses 5, 6, 8, 9, 10, 11, 12, 15 and 17 shall continue with full force and effect.

### 16. Confidentiality

- 16.1. Parties agree not to disclose and to keep secret any confidential information that they have obtained from one another or from a third party within the context of the Agreement. All information will be regarded as being confidential, unless expressly stated otherwise.
- 16.2. Parties will not be liable for damages in connection with violation of Clause 15.1 if they are designated by law or a competent court to disclose confidential information and there is no legal right on ground of which they may refuse to do so.

**17. Ledger 3D**

- 17.1. In the event that You receive the Service via Creditsafe's interactive risk management tool, "3D Ledger", You will provide Creditsafe with information relating to your debtors ledger; the "Payment Data".
- 17.2. You hereby grant Creditsafe a non-exclusive, non-transferable perpetual licence to include the Payment Data in products and services that Creditsafe will make available to its customers.

**18. Miscellaneous**

- 18.1. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck out and the remaining provisions shall remain enforceable.
- 18.2. The failure of Creditsafe to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such a right. This Agreement constitutes the entire agreement between You and Creditsafe in relation to the Service.
- 18.3. The Agreement exists in both the Dutch and English language. In the event of a disagreement or dispute relating to the interpretation of the Agreement, the Dutch version takes precedence and will be binding.

**19. Governing law and competent forum**

- 19.1. This Agreement shall be governed by and construed in accordance with law of the Netherlands.
- 19.2. All disputes arising between parties out of or in connection with this Agreement, if they cannot be solved amicably, shall be submitted to the competent court in The Hague, the Netherlands.