

**NXTsoft General Terms and  
Conditions  
(ThreatAdvice Client Agreement)**

**1. Set Up**

a Upon execution of this Agreement, Client will identify those persons within its organization authorized to utilize the Website and/or the Services (its "Authorized Users") to NXTsoft Cybersecurity Solutions, LLC d/b/a ThreatAdvice ("ThreatAdvice" or "NXTsoft") by providing a written list of the names, email addresses and phone numbers of each Authorized User. ThreatAdvice will create user accounts (the "Accounts" or, singularly, the "Account") for each Authorized user, using the Authorized User's email as a User ID and assigning a temporary password (the "Temporary Credentials"). Once the Temporary Credentials are assigned, ThreatAdvice will email each Authorized User with instructions on how to access his or her Account. When each Authorized User accesses the Website using his/her Temporary Credentials, s/he will be required to create a new password and possibly to provide other information to verify the security of the Account (the resulting information will be each Authorized User's "User Credentials").

b Once User Credentials are activated, the Authorized User is free to start using the Website and Services in accordance with the Client's Service Plan Level. Client is responsible for: (a) making all arrangements necessary for access to the Website and for use of the Services and (b) ensuring that all of Client's Authorized Users and any other persons who may access the Website or use the Services using Client's Account or Client's internet connection comply with this Agreement.

**2. Restrictions Regarding User Credentials**

a As a condition of this Agreement and Client's right to use of the Website or Services, Client must keep all of its Client Information and Authorized User information up to date at all times. All Client information and Authorized User information will be maintained and used by NXTsoft in accordance with NXTsoft's Privacy Policy.

b Client is responsible for ensuring that all Authorized Users treat their User Credentials as confidential, and do not disclose their User Credentials to any other person or entity. Client acknowledges that the Account is personal to Client and Client's Authorized Users and agrees not to provide any other person with access to this Website or use of the Services using Client's Account. Client is responsible for all activity on the Website or with the Services through Client's Account or using User Credentials for any of Client's Authorized Users. Client agrees to immediately notify NXTsoft of any unauthorized access to or use of Client's Account or any Authorized User's User Credentials. Client may not sell, assign or otherwise transfer User Credentials to any third party.

NXTsoft has the right to disable any User Credentials at any time, in its sole discretion, for any or no reason, including if, in NXTsoft's opinion, Client has violated any provision of this Agreement, or if Client has failed to make any payments in a timely manner.

**3. Termination**

a At the end of the initial term defined in the agreement, and with 30 days prior written notice, either party may terminate this Agreement, for any reason, prior to the annual renewal date. Termination of this Agreement will not terminate any provision that by its terms survives beyond the termination of the Agreement.

b Without limiting the foregoing, if Client breaches this Agreement by printing, copying, modifying, downloading or otherwise using or providing any other person with access to any part of the of the Website or Services in breach of this Agreement, NXTsoft may terminate this Agreement immediately by providing written notice to Client. In addition, if Client fails to pay any amounts due to NXTsoft within thirty (30) days of written notice of delinquency from NXTsoft, NXTsoft may terminate Client's Account, remove any of Client's information from the Website or the Services, and/or terminate this Agreement Without limiting the foregoing, if Client breaches this Agreement by printing, copying, modifying, downloading or otherwise using or providing any other person with access to any part in its entirety. NXTsoft may terminate this Agreement by delivery of written notice to Client if a receiver, liquidator or trustee for the Client is appointed by a court or regulatory authority with jurisdiction over the Client and such order stays in effect for thirty (30) days or more, the Client is adjudicated bankrupt or insolvent or is taken over by a regulatory authority; or a petition is filed against the Client or voluntarily by the Client under any bankruptcy, reorganization, insolvency, dissolution or liquidate statute of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing; or the Client ceases to do business, makes an assignment for the benefit of creditors or is unable or admits its inability to pay its debts when they mature.

c. Upon termination of this Agreement for any reason, Client must, at NXTsoft's option, return or destroy any copies of any documentation, manuals, descriptions or other materials Client has made related to the Website or Services or has been provided by NXTsoft. To the extent Client must delete or destroy electronic copies of any applicable material, it shall do so using methods reasonably anticipated to preclude the recovery or recreation of the same. If the Agreement is terminated by Client without cause, or by NXTsoft due to Client's breach, all remaining payments for the full remaining Term of the Agreement shall immediately become due and payable. Client shall indemnify NXTsoft for all costs and expenses incurred in connection with any collection activity required to collect any payments under the Agreement, including legal fees and expenses.

#### **4. Electronic Communications Authorized**

Client acknowledges and agrees that communications between NXTsoft and Client may be via electronic means, such as sending emails or completing information requests on the Website. Client agrees that NXTsoft may contact Client by email, a phone number or other means that Client has provided to NXTsoft and Client consents to NXTsoft recording or monitoring such phone calls for quality assurance and/or training purposes.

#### **5. Intellectual Property Rights**

a. Client acknowledges and agrees that, as between NXTsoft and Client, with the exception of User Contributions, NXTsoft is the sole owner of the Website, the Services and the Content and that all intellectual property rights in and to the Website, the Services and the Content, belong exclusively to NXTsoft or its licensors.

b. Client agrees not to reproduce, decompile, disassemble, reverse engineer, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on the Website or in the Services and not to rent, lease, loan or sell access to the Services except as expressly permitted in this Agreement.

c. Client acknowledges and agrees that any ideas, concepts, know-how or techniques relating to the Website or Services provided under this Agreement or used by NXTsoft during the course of this Agreement, including, without limitation, software programs, screen layouts, graphics, report formats and use manuals are and shall remain the exclusive property of NXTsoft or its licensors. Client agrees to treat such information as intangible proprietary information of NXTsoft and to use reasonable care in maintaining the confidentiality of such information.

d. For purposes of these Terms, "Content" means any work of authorship or information, including, product reviews, vendor reviews, product category taxonomy, comments, opinions, postings, messages, text, files, images, photos, works of authorship, email or other material whether created by Client, another user or NXTsoft. No right, title or interest in or to the Website, the Content or the Services is transferred to Client, and all rights not expressly granted to Client are reserved by NXTsoft.

e. The NXTsoft name and logo and all related names, logos, product and service names, designs and slogans are trademarks of NXTsoft. Client agrees not to use such marks without the prior written permission of NXTsoft. All other names, logos, product and service names, designs and slogans on the Website are the trademarks of their respective owners.

#### **6. Prohibited Uses**

a. Client may use the Website and Services only for lawful purposes and in accordance with this Agreement. Client agrees not to use the Website or Services (a) in any way that violates any applicable federal, state, local or international law or regulation; (b) to send, knowingly receive, upload, download, use or re-use any material which does not comply with the Content Standards set out in these Terms and Conditions; (c) to transmit, or procure the sending of, any advertising or promotional material, including any "junk mail", "chain letter" or "spam" or any other similar solicitation; (d) to impersonate or attempt to impersonate NXTsoft, a company employee, another user or any other person or entity (including, without limitation, by using email addresses or User Credentials associated with any of the foregoing); or (e) to engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website or Services, or which, as determined by NXTsoft, may harm NXTsoft or users of the Website or Services or expose them to liability.

b. Additionally, Client agrees not to, and to ensure that its Authorized Users do not: (a) use the Website or Services in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Website or Services, including their ability to engage in real time activities through the Website or Services; (b) use any robot, spider or other automatic device, process or means or any manual process or means to access the Website for any purpose, including monitoring or copying any of the material on the Website, the Content or any portion of the Services; (c) introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful; (d) attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Website, the server on which the Website is stored, any server, computer or database connected to the Website or the Services; (e) attack the Website via a denial-of-service attack or a distributed denial-of-service attack or other means; or (f) otherwise attempt to interfere with the proper working of the Website or Services.

## **7. User Contributions**

a The Website provides opportunities for users to upload or provide Content to the Website (the "User Contributions"). All User Contributions must comply with the Content Standards set out in these General Terms and Conditions. Client agrees that User Contributions made by its Authorized Users will be considered nonconfidential and non-proprietary, and Client grants NXTsoft the unrestricted, irrevocable, perpetual, non-exclusive, fully-paid and royalty-free license (with the right to sublicense) to use, copy, reproduce, modify, perform, display, create derivative works of, distribute and otherwise disclose to third parties any such material and agrees to ensure that all Authorized Users grant NXTsoft the same rights. Client represents and warrants that: (a) it or its Authorized Users own or control all rights in and to the User Contributions and have the right to grant NXTsoft the rights specified in this paragraph; (b) that all of Client's and Client's Authorized Users' User Contributions do and will comply with these General Terms and Conditions; (c) that all submission made to the Website through Client's Account are accurate to the best of the Authorized User's knowledge; and (d) if Client or its Authorized Users provide a review, evaluation, or opinion of a product or service, the Authorized User providing such review, evaluation or opinion is not an employee, contractor, agent, channel partner or director of the vendor of such product or service to its affiliate and otherwise has no pecuniary interest in such vendor, product or service (if Client or the Authorized User individually, receives any incentive from NXTsoft in exchange for providing a review, evaluation or opinion, that fact must be stated in the review, evaluation or opinion). Client agrees that it will not receive any compensation for the User Contributions submitted to NXTsoft through Client's Account.

b All User Contributions are the sole responsibility of the posting user, and NXTsoft assumes no responsibility for the content, legality, reliability, accuracy or appropriateness of any User Contributions.

c NXTsoft has the right to: (a) remove or refuse to post any User Contributions for any or no reason in its sole discretion; (b) take any action with respect to any User Contribution that NXTsoft deems necessary or appropriate in its sole discretion, including if NXTsoft believes that such User Contribution violates this Agreement; (c) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Website or Services; or (d) terminate or suspend Client's or any Authorized User's access to all or part of the Website or Services for any or no reason, including without limitation, any violation of these Terms and Conditions.

d Without limiting the foregoing, NXTsoft has the right to fully cooperate with any law enforcement authorities or court order requesting or directing disclosure of the identity or other information of anyone posting any materials on or through the Website. CLIENT WAIVES AND HOLDS HARMLESS NXTSOFT AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES. NXTSOFT WILL REPORT ANY ILLEGAL ACTIVITIES ON THE WEBSITE OR IN CONJUNCTION WITH THE SERVICES TO THE APPROPRIATE AUTHORITIES.

e NXTsoft reserves the right but does not undertake to review material before it is posted on the Website. Accordingly, NXTsoft assumes no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. NXTsoft has no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

## **8. Content Standards**

All User Contributions must comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, User Contributions must not: (a) contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable; (b) promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age; (c) infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person; (d) violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms; (e) be likely to deceive any person; (f) promote any illegal activity, or advocate, promote or assist any unlawful act; (g) impersonate any person, or misrepresent your identity or affiliation with any person or organization; or (h) give the impression that they emanate from or are endorsed by NXTsoft or any other person or entity, if this is not the case.

## **9. Copyright Infringement**

Client agrees to comply with all copyright laws when making User Contributions. NXTsoft's policy with regard to copyright infringement is posed on the Website in the Terms of Use.

## **10. Reliance on Information Posted**

a The information presented on or through the Website or as part of the Services is made available solely for general information purposes. NXTsoft does not warrant the accuracy, completeness or usefulness of this information. Any reliance Client places on such information is strictly at Client's own risk. NXTsoft disclaims all liability and responsibility arising from any reliance placed on such materials by Client or any other visitor to the Website or any user of the Services, or by anyone who may be informed of any of the Website or the Services contents.

b. This Website includes content provided by third parties, including but not limited to, User Contributions. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by NXTsoft, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of NXTsoft. NXTsoft is not responsible, or liable to Client or any third party, for the content or accuracy of any materials provided by any third parties.

#### **11. Interactions and Transactions with Other Users**

If Client elects to enter into a transaction with another user from the Website, the terms of such transaction and any liabilities associated with such transactions are solely between the Website users and not with NXTsoft. Client agrees that NXTsoft is not responsible for any loss or damage incurred as the result of any such dealings or with respect to any other user's use or disclosure of information about Client that Client has provided to publicly available sections of the Website or Services. If there is a dispute between Client and any third party (including all other users) NXTsoft is under no obligation to become involved; however, NXTsoft reserves the right, but has no obligation, to monitor disputes between Clients and others related to the Website, the Services, or any transactions resultingtherefrom.

#### **12. Changes to the Website or Services**

NXTsoft reserves the right to and may update, modify, limit or terminate the Website, the Services or the Content from time to time, without liability to Client. While NXTsoft endeavors to ensure that the information on the Website and contained in the Services is current and up to date, NXTsoft makes no warranties or guarantees as to accuracy, completeness or up-to-date status of the Website, Services or Content.

#### **13. Information Provided to NXTsoft**

All information collected on this Website or as part of the Services is subject to NXTsoft's Privacy Policy.

#### **14. Links from the Website**

The Website contains links to other sites and resources provided by third parties. These links are provided for convenience only, and NXTsoft has no control over the contents of those sites or resources, and accepts no responsibility for them or for any loss or damage that may arise from Client's use of them. These third party sites have their own terms and privacy policies and are not subject to these General Terms and Conditions or NXTsoft's Privacy Policy. If provided for convenience only, and NXTsoft has no control over the contents of those sites or resources, and accepts no responsibility for them or for any loss or damage that may arise from Client's use of them. These third party sites have their own terms and privacy policies and are not subject to these General Terms and Conditions or NXTsoft's Privacy Policy. If Client decides to access any of the third party websites linked to this Website, Client does so entirely at its own risk and subject to the terms and conditions of use for such websites.

#### **15. Geographic Restrictions**

NXTsoft is based in the state of Alabama in the United States. NXTsoft provides the Website and the Services for use only by persons located in the United States. NXTsoft makes no claims that the Website, the Services or their Content are accessible or appropriate outside of the United States. Access to the Website or use of the Services may not be legal by certain persons or in certain countries. If Client is located outside the United States, Client accesses the Website and uses the Services on its own initiative and is responsible for compliance with local laws.

#### **16. Disclaimer of Warranties**

a. Client understands that NXTsoft cannot and does not guarantee or warrant that files available for downloading from the internet or the Website or any part of the Services will be free of viruses or other destructive code. Client is responsible for implementing sufficient procedures and checkpoints to satisfy Client's particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to the Website for reconstruction of any lost data. NXTSOFT WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT ITS OR CLIENT'S COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO CLIENT'S USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO CLIENT'S DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

b. CLIENT'S USE OF THE WEBSITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES IS AT CLIENT'S OWN RISK. THE WEBSITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER NXTSOFT NOR ANY PERSON ASSOCIATED WITH NXTSOFT MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE WEBSITE OR THE SERVICES. WITHOUT LIMITING THE FOREGOING, NEITHER NXTSOFT NOR ANYONE ASSOCIATED WITH NXTSOFT REPRESENTS OR WARRANTS THAT THE WEBSITE OR THE SERVICES, THEIR CONTENT OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE WEBSITE, THE SERVICES, OR THE SERVER THAT MAKES THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SERVICES WILL OTHERWISE MEET CLIENT'S NEEDS OR EXPECTATIONS.

NXTSOFT HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE. THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

#### **17. Limitation of Liability**

IN NO EVENT WILL NXTSOFT, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH THE SERVICES, CLIENT'S USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE. WITHOUT LIMITING THE FOREGOING, IN THE EVENT THIS LIMITATION OF LIABILITY IS DETERMINED TO BE INVALID OR UNENFORCEABLE, NXTSOFT'S MAXIMUM LIABILITY RELATED TO OR ARISING OUT OF THE WEBSITE, THE SERVICES OR THE CONTENT, REGARDLESS OF THE BASIS FOR THE CLAIM, SHALL BE THE LESSER OF (A) THE FEES CLIENT PAID TO NXTSOFT IN THE THREE (3) MONTHS PRIOR TO THE CLAIM OR (B) \$100.00. THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. ANY CAUSE OF ACTION OR CLAIM CLIENT MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE WEBSITE OR THE SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES.

#### **18. Indemnification**

Client agrees to defend, indemnify and hold harmless NXTsoft, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to Client's violation of the Agreement or Client's use of the Website or Services, including, but not limited to, User Contributions, any use of the Content, Services and products other than as expressly authorized in this Agreement or your use of any information obtained from the Website or Services.

**Governing Law and Jurisdiction** All matters relating to the Website, the Services and this Agreement and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction). Any legal suit, action or proceeding arising out of, or related to, this Agreement or the Website or Services shall be instituted exclusively in the federal courts of the United States or the courts of the State of Delaware. Client waives any and all objections to the exercise of jurisdiction over Client by such courts and to venue in such courts.

#### **19. Notice**

All notices, demand and other communications permitted or required under this Agreement shall be in writing and deemed properly given when delivered by nationally recognized overnight or express courier services, such as Federal Express, or by hand to the parties at their respective addresses identified in this Agreement. Notice shall be deemed to be effective when delivery is confirmed by the courier service or by signature upon personal delivery. Notices given in other manners shall be deemed effective upon proof of delivery to the individual to whom they are sent.

**20. Waiver and Severability**

No waiver by NXTsoft of any term or condition set forth in this Agreement shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of NXTsoft to assert a right or provision under this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of this Agreement will continue in full force and effect.

**21. Arbitration**

NXTsoft and Client shall endeavor in good faith to resolve all claims, controversies and disputes arising from, or in connection with, the Agreement through informal discussions and negotiations either between themselves or between respective legal advisors appointed by each party. If the parties fail to resolve a claim, controversy or dispute among themselves, they will submit any unresolved claim, controversy or dispute to binding arbitration pursuant to the provisions of the Federal Arbitration Act. All disputes, controversies or claims arising out of the Agreement shall be settled by arbitration in State of Delaware before a single arbitrator pursuant to the Rules of the American Arbitration Association (the "Rules"). Arbitration may be commenced by either party giving written notice to the other party that the dispute has been referred to arbitration under this Section. The arbitration shall be selected by the joint agreement of the parties, but if they do not agree within twenty (20) days after the date of the notice referred to above, the selection shall be made pursuant to the Rules from the panels of arbitrators maintained by such Association. Any award rendered by the arbitrator shall be conclusive and binding upon the parties; provided, however, that any such award shall be accompanied by a written opinion of the arbitrator giving the reasons for the award. This provision for arbitration shall be specifically enforceable by the parties, and the decision of the arbitrator in accordance herewith shall be final and binding, and there shall be no right of appeal therefrom. Each party shall pay its own expenses of arbitration, and the expenses of the arbitrator shall be equally shared; provided, however, that if in the opinion of the arbitrator any claim under the Agreement or any defense or objection thereto was unreasonable, the arbitrator may assess, as part of his or her award, all or any part of the arbitration expenses of the other party (including reasonable attorney's fees) and of the arbitrator against the party raising such unreasonable claim, defense or objection. No suit at law or in equity based upon claims, disputes or controversies arising under the Agreement shall be instituted by any party if such claims, disputes or controversies are subject to arbitration, except an action to compel arbitration pursuant to the Agreement or an action to enforce the award of the arbitrators.

**22. Assignment**

NXTsoft may assign this Agreement upon written notice to Client of the same. However, this Agreement may not be assigned, sublicensed, or otherwise transferred to any third parties by Client without the prior written consent of NXTsoft.