

KE-works General Terms and Conditions

Version: 2018-03

GENERAL MODULE

1 APPLICABILITY

- 1.1 The KE-works General Terms and Conditions (hereinafter referred to as: "GTC") consist of this General module as well as specific modules per service. The specific modules are:
 - a. Module 1: Custom-Made Software Services
 - b. Module 2: Consultancy Services
- 1.2 These GTC shall for the Orders hereunder constitute the complete and entire Agreement hereto between the Parties and shall be the final written expression and exclusive statement of the terms thereof. These GTC supersede any previous understanding or agreement between KE-works and Customer for the Orders hereunder, whether oral or in writing, in respect of the subject matter hereof. These GTC shall apply to all Orders issued by Customer to KE-works, unless the Parties hereto agree otherwise in writing.
- 1.3 The applicability of any and all other (General) Terms and Conditions appearing on and/or referred to in letters, invoices and other documents issued by Customer is herewith excluded expressly.
- 1.4 All Annexes hereto are forming an integral part of the GTC, if and to the extent this GTC shall not supersede them.
- 1.5 If and to the extent there shall be a discrepancy between these GTC, including the Annexes hereto, and any provision set forth in an individual Order, these GTC shall prevail, unless the relevant Order states expressly that the respective provision set forth in the Order shall supersede these GTC on the issue involved.
- 1.6 All correspondence, communication and documentation shall be written in the Dutch or English language.

2 CREATION OF AN ORDER

- 2.1 These GTC shall apply to all Orders whereby KE-works provides Customer with any goods and/or services. All Orders shall be in writing, dated and numbered and shall include if applicable:
 - a. Specification of the required work to be performed (hereinafter referred to as: "the Work") and laid down in a Statement of Work accompanied with rates, prices and discounts with their validity period;
 - b. Classification of the type of results; consultancy services and/or custom-made software;

3 PRICING, INVOICING AND PAYMENT

- 3.1 The applicable rates, prices and discounts shall be specified in the related Order. All prices shall be exclusive of Value Added Tax and other levies imposed by the government.
- 3.2 Except where agreed otherwise in writing, payment is to be made on the agreed date and in the Euro currency.

- 3.3 All agreed prices and rates may be increased on 1 January each in accordance with the most recently published price index published by Statistics Netherlands (CBS) for collectively bargained wages in the business services sector.
- 3.4 All cost estimates and budgets issued by KE-works shall be indicative, except where specified otherwise in writing by KE-works. Customer may under no circumstances derive any rights or expectations from any cost estimates or budgets issued by KE-works. An available budget made known by Customer to KE-works shall under no circumstances apply as a (fixed) price agreed between the Parties for the service to be provided by KE-works. KE-works shall only be obliged to notify Customer that there is a risk that a cost estimate or budget issued by KE-works will be exceeded if this has been agreed between the Parties in writing.
- 3.5 If Customer is subject to a periodic payment obligation, KE-works shall be entitled to adjust the applicable prices and rates in writing subject to prior written notice of at least three months after the initial term of this Agreement. If Customer does not wish to agree to this price adjustment, Customer shall be entitled to terminate the Agreement in writing with effect from the date on which the adjustment is due to enter into force within thirty days following the date of notification. Customer shall not enjoy this right of termination, however, if the Parties have agreed that the applicable prices and rates shall be adjusted subject to due observance of an index or other standard agreed between the Parties.
- 3.6 All invoices hereunder shall be sent by KE-works to Customer as from the date of completion of the related Order, or at any such moment as specified expressly in the Order.
- 3.7 The prices due by Customer shall be payable to KE-works within thirty (30) days as from the date of the invoice in respect thereof. Customer shall not be entitled to suspend any payments or to offset any amounts due.
- 3.8 If Customer fails to pay the amounts due or to pay the amounts due in a timely manner, statutory commercial interest shall be payable by Customer on the outstanding amount without demand or notice of default being required. If Customer still fails to pay the amount owed after receiving a demand or notice of default, KE-works may refer the debt for collection, in which case Customer shall also be obliged to pay all in-court and out-of-court expenses in addition to the total amount due, including all costs charged by external experts.
- 3.9 KE-works may retain any items, products, access rights, proprietary rights, data, documents, software, data files and (interim) results of the service provided by KE-works received or created within the context of the Agreement, contrary to an existing obligation to deliver or transfer these, until such time as Customer has paid all amounts due to KE-works.
- 3.10 If Customer fails to make the data, documents, hardware, software, materials or employees that KE-

works deems useful, necessary or desirable for the purpose of executing an Order available to KE-works, to make these available in good time or in accordance with the agreements, or if Customer fails to meet its obligations in any other way, KE-works shall be entitled to suspend the execution of the Order in part or in full and shall also be entitled to invoice the resulting costs in accordance with its standard rates, without prejudice to the Supplier's right to exercise any other statutory and/or agreed right.

4 INTELLECTUAL PROPERTY RIGHTS

- 4.1 For the purpose of an Order, Customer hereby grants KE-works a non-exclusive license to use Customer's intellectual property rights relevant for the performance of the Work for the duration of the Order.
- 4.2 Customer shall indemnify KE-works against all claims by third Parties arising from or in connection with (the use of) Customer's intellectual property rights.
- 4.3 All intellectual property rights, including, but not limited to the software, websites, data files, hardware or other materials such as analyses, designs, documentation, reports, quotations and related preliminary material developed or made available to Customer on the basis of an Order shall remain exclusively vested in KE-works, its licensors or its own suppliers. Customer shall only acquire those rights of use that are explicitly granted in these GTC and by law. Any rights of use granted to Customer shall be non-exclusive, non-transferable to third Parties and non-sublicensable.

5 RETENTION OF TITLE AND RIGHTS, CREATION OF ITEMS AND SUSPENSION

- 5.1 All objects delivered to Customer shall remain the property of KE-works until all amounts owed by Customer to KE-works pursuant to the Order concluded between the Parties have been paid in full. If Customer creates a new item (partly) from items delivered by KE-works, Customer shall only create this item for the benefit of KE-works and Customer shall retain the newly created item for KE-works until Customer has paid all amounts due pursuant to the Order; in this case KE-works shall remain the owner of the newly created item until Customer has met its payment obligations in full.
- 5.2 Rights, including rights of use, shall be granted to Customer or transferred, where appropriate, subject to the condition that Customer has paid all of the fees due pursuant to an Order concluded between the Parties in full. If the Parties have agreed that Customer shall be subject to a periodic payment obligation in respect of the granting of a right of use, Customer shall be entitled to the right of use for as long as it continues to meet its periodic payment obligation.

6 NON-DISCLOSURE

- 6.1 Without prior written approval either Party shall not disclose to any third Party information regarding terms and conditions of the GTC and/or any Order

hereunder and/or regarding the performance by either Party of its obligations pursuant thereto.

- 6.2 In accordance with the provisions set forth in Article 6.6.1 KE-works shall not disclose to third Parties any information regarding Customer's business and/or practice of business that may have become available to KE-works in connection with the performance of the Work pursuant to an Order, except for information that may be reasonably assumed to be of common knowledge or accessible to the public.
KE-works shall treat all information, data and documents, furnished by Customer to KE-works or specifically designated for Customer in respect of an Order, including information regarding materials applied, as strictly confidential in accordance with the provisions set forth herein.
KE-works shall impose on its employees and/or Representatives a clause regarding non-disclosure, in alignment with the provisions set forth in this Article.
- 6.3 The provisions set forth in this 6 shall remain in full force and effect in the event of termination of this Agreement and the Orders hereunder, irrespective of the causes thereof.
- 6.4 In accordance with the provisions set forth in Article 7 KE-works shall return to Customer upon termination of an Order or upon completion of the Work under the respective Order after a written request by Customer, all information furnished by Customer to KE-works hereunder.
- 6.5 If and to the extent either Party fails to meet its obligations as set forth in Article 6.6.1 and/or Article 6.6.2, that Party shall forthwith forfeit to the other Party, without a notice of default or judicial intervention being required and without prejudice to the other rights and/or remedies available to the other Party, a penalty equal to one hundred thousand Euro's (EUR 100.000,-) per event.

7 FURNISHED PROPERTY

- 7.1 If the KE-works Representatives are carrying out activities on the Customer's business premises, Customer shall ensure that any facilities reasonably requested by these Representatives, such as a workspace containing computer, data and telecommunication facilities, are provided free of charge. The workspace and facilities shall meet all statutory and other applicable requirements in relation to working conditions. Customer shall indemnify KE-works against any claims by third Parties, including KE-works' Representatives, who suffer injury in connection with the execution of an Order as a result of an act or omission on the part of Customer or of unsafe situations within the Customer's organisation. Customer shall notify the Representatives deployed by Customer of any applicable company rules or security rules prior to the commencement of the activities.

8 LIABILITY

- 8.1 The total liability of KE-works due to an attributable failure to perform the Order under these GTC or due

to any other reason, explicitly including any failure to comply with a guarantee obligation agreed with Customer, shall be limited to compensation of the direct damage or loss not exceeding the sum stipulated for the Order (excl. VAT). This limitation of liability shall apply mutatis mutandis to KE-works' obligation to indemnify referred to in Article 4.2 of this General module. If the Order under these GTC is essentially a continuing performance contract with a term of more than one year, the sum stipulated for the Order shall be set at the total fees (excl. VAT) stipulated for one year. The total liability of KE-works for direct damage or loss, for any reason whatsoever, shall, however, under no circumstances exceed one hundred thousand euro (EUR 100.000,-).

- 8.2 The liability of KE-works for indirect damage or loss, resulting loss, loss of profit, loss of savings, reduced goodwill, loss due to business interruption, loss as a result of claims from Customer's customers, loss in connection with the use of items, materials or software provided by third Parties that KE-works is instructed to obtain by Customer and loss in connection with the engagement of secondary suppliers by KE-works on Customer's instructions shall be excluded. The liability of KE-works due to the scrambling, destruction or loss of data or documents shall also be excluded.
- 8.3 Except where performance of the Order by KE-works is permanently unattainable, KE-works shall only be liable as a result of an attributable failure to perform the Order under these GTC if Customer gives KE-works immediate notice of default in writing, setting a reasonable term in which the breach can be remedied, and KE-works still attributably fails to meet its obligations after this period. The notice of default must contain as comprehensive and detailed a description of the breach as possible, in order to ensure that KE-works has the opportunity to respond adequately.
- 8.4 A condition for the existence of any right to compensation shall in all cases be that Customer notifies KE-works in writing of the loss or damage as soon as possible after it occurs. Any claims for damages against KE-works shall expire by the mere passage of three months from the date on which the claim arose.
- 8.5 Customer warrants that no rights of third Parties preclude the provision to KE-works of software, hardware, material intended for websites (visual material, text, music, domain names, logos, hyperlinks etc.), data files or other materials, including draft materials, for the purpose of use, adaptation, installation or incorporation (e.g. in a website). Customer shall indemnify KE-works against all claims by third Parties based on the assertion that such provision, use, adaptation, installation or incorporation constitutes an infringement of any rights of the third Party in question.
- 8.6 Customer shall indemnify KE-works against all claims by third Parties due to product liability as a result of a fault in a product or system delivered by Customer to a third Party and that partly consisted of hardware,

software or other materials provided by KE-works, unless and in so far as Customer is able to demonstrate that the damage or loss was caused by this hardware, software or other materials.

9 FORCE MAJEURE

- 9.1 Neither of the Parties shall be obliged to meet any obligations under these GTC, including any guarantee obligation agreed between the Parties, if it is prevented from doing so as a result of force majeure. Force majeure shall include:
- a situation of force majeure encountered by KE-works' own suppliers
 - failure by secondary suppliers engaged by KE-works on Customer's instructions to duly meet their obligations
 - the defectiveness of items, hardware, software or materials provided by third Parties that KE-works has been instructed to use by Customer
 - government measures
 - electricity failure
 - faults affecting the internet, computer network or telecommunication facilities
 - war
 - workload
 - strike action
 - general transport problems
 - the unavailability of one or more members of staff
- 9.2 If a situation of force majeure lasts for longer than ninety days, either of the Parties shall be entitled to terminate the Order in writing. The services already performed on the basis of the Order shall in this case be settled on a pro rata basis, and the Parties shall not owe one another any other amounts.

10 MISCELLANEOUS

- 10.1 Either Party's failure to enforce at any time any of the provisions set forth in these GTC or to require at any time the performance of any of the provisions hereof, shall not be construed to be a present or future waiver of such provisions or of the right to enforce each and every such provision.
- 10.2 These GTC shall inure to the benefit of and be binding upon the successors and assigns of both Parties. Neither these GTC nor any Order hereunder may be delegated, assigned or otherwise transferred, whether in whole or in part, by any Party to a third Party without the prior consent in writing of the other Party hereto.
- 10.3 Notices and communication between KE-works and Customer shall be deemed to be validly given if and to the extent these notices and communications shall be transmitted in writing, including email and telefax, and addressed in conformity with the relevant provisions in the Order. All notices and communications between KE-works and Customer shall be effective as from the date and moment of receipt thereof by the addressee. Notices of default as well as notices of termination and/or cancellation

shall only be valid if sent to the other Party by registered mail and email.

- 10.4 During the term of the Order and for two (2) years after any termination of the Order, both Parties will not, without the prior written consent of the other Party, either directly or indirectly, on Party's own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by the other Party. Unless agreed on a case-by-case basis by both Parties in writing.

11 TERMINATION OF AN ORDER

- 11.1 Either Party shall have the right to terminate an Order, whether in whole or in part, by written notice to the other Party by registered mail without judicial intervention being required, if and to the extent:
- a. the other Party breaches any obligation under these GTC irrespective of the cause thereof, and the other Party fails to remedy such breach within a reasonable term after receipt of the written notice thereof, or;
 - b. the other Party suspends or terminates all or substantially all of the operations of its business, becomes bankrupt or insolvent, instituted proceedings or in case proceedings have been instituted for its bankruptcy or for the suspension of payment, or in case a receiver or trustee is appointed for itself, its goods or any part thereof.
- 11.2 Termination of an Order in accordance with the provisions set forth in this Article shall not affect any of the other rights and/or remedies available to the terminating and/or cancelling Party.
- 11.3 The articles herein which by their nature should survive the expiry or termination of an Order shall remain in force after such expiry or termination, including, but not limited to Article 4 and Article 6.

12 COMPLIANCE WITH LAWS

- 12.1 If any provision of these GTC shall be or shall be declared void or unenforceable by force or operation of law, the other provisions set forth herein shall remain valid and enforceable.
- 12.2 These GTC and the Orders hereunder shall be governed by and interpreted in accordance with the Dutch law. The applicability of the Convention on Contracts for the International Sale of Goods 1980 is excluded.
- 12.3 Any dispute arising directly or indirectly from these GTC and/or any Order hereunder shall finally be settled by and in conformity with the rules of conciliation and arbitration of the Netherlands Arbitration institute (N.A.I.) in Rotterdam (The Netherlands).
- 12.4 Pending resolution of any dispute, the Parties hereto agree to proceed diligently with the performance of their obligations pursuant to these GTC and/or the Orders.

MODULE 1: CUSTOM-MADE SOFTWARE SERVICES

1 APPLICABILITY

- 1.1 The KE-works General Terms and Conditions (hereinafter referred to as: "GTC") consist of this General module as well as specific modules per service. The provisions of this module shall apply in addition to the provisions of the General module in the event that KE-works develops custom-made software (hereinafter referred to as: "Custom-Made Software") on behalf of Customer for Customer or one or more third Parties.
- 1.2 The provisions of this module are inextricably linked with the provisions of the General module. In the case of conflict between the provisions in the General module and the provisions of this Module, this Module shall prevail.
- 1.3 The scope of Custom-Made Software is specified in the Order.

2 INTELLECTUAL PROPERTY RIGHTS AND RESTRICTIONS

- 2.1 Except where agreed otherwise in writing, all intellectual property rights related to the Custom-Made Software shall be transferred to Customer after completion of the Custom-Made Software and payment has been received in full. The transfer of rights also includes the (physical) transfer of the Source Code, Object Code and the preparatory design material of the Custom-Made Software.
- 2.2 The transfer of the intellectual property rights to Customer shall not affect KE-works' right or option to use and/or to exploit the components, general principles, ideas, designs, algorithms, documentation, work, programming languages, protocols, standards and suchlike that form the basis of the development work for other purposes without any restrictions, on its own behalf or on behalf of a third party.
- 2.3 Except where agreed otherwise in writing, KE-works shall not be obliged to provide the auxiliary Custom-Made Software and program or data libraries required for the use and/or maintenance of the Custom-Made Software. If, contrary to the foregoing, KE-works is also requested to provide auxiliary software and/or program or data libraries, KE-works may require Customer to enter into a separate written agreement for this purpose.
- 2.4 KE-works has the right to retrieve and use data on use of the software, such as; performance, usage, or any other usage meta data.

3 DEVELOPMENT OF THE SOFTWARE

- 3.1 If KE-works has not already been provided with specifications or a design by or on behalf of Customer before an Order, the Parties shall draw up written specifications in consultation with regard to what Custom-Made Software will be developed and how the development will take place. The Parties both acknowledge that effective coordination and good

mutual communication are essential factors in the proper specification, design and development of Custom-Made Software. Collaboration and mutual communication will take place wherever possible subject to due observance of any project plan, arrangements and/or procedures agreed between the Parties in writing.

- 3.2 Except where otherwise agreed in writing, KE-works uses an Agile Development Method that is characterised by the basic principle that the design and/or development of parts of the Custom-Made Software shall be governed by a prioritisation in relation to the specifications that is to be determined in greater detail during the execution of the Work, this prioritisation shall in all cases be drawn up in consultation between the Parties.
- 3.3 KE-works shall develop the Custom-Made Software with due care, subject to due observance of the Custom-Made Software specifications or design and – where appropriate – with due observance of the project plan, methods, techniques, arrangements and/or procedures agreed in writing with Customer. Before commencing the development work, Customer may require KE-works to issue a written declaration of its full and unconditional agreement to the specifications or design. KE-works shall be entitled to suspend its activities until such time as Customer has issued a written declaration of its full and conditional approval to the specifications or design.
- 3.4 KE-works shall in all cases carry out the development work on the basis of a best efforts obligation, unless and in so far as Customer has explicitly undertaken in the written agreement to achieve a specific result and the result in question is sufficiently determined.
- 3.5 Except where otherwise agreed in writing, KE-works shall not be obliged to follow timely and well-founded instructions issued by Customer during the realisation of the development work. KE-works shall not be obliged to follow instructions that change or extend the content or scope of Customer's performance obligations.

4 ACCEPTANCE OF CUSTOM-MADE SOFTWARE

- 4.1 If the Parties have not agreed that (an) acceptance test(s) will be carried out, Customer shall accept the Custom-Made Software on the condition that it is in at the time of delivery ('as is'), therefore with all visible and invisible errors and defects, without prejudice to KE-works' obligations pursuant to the guarantee in Article 5 of this module.
- 4.2 If the Parties have agreed to (an) acceptance test(s) in writing, the provisions of Article 4.3 to 4.10 inclusive of this module shall apply.
- 4.3 Where this module refers to 'errors', this shall be understood to mean the substantial failure to meet the functional or technical specifications explicitly agreed in writing between the Parties. An error shall only be deemed to exist if Customer is able to demonstrate the error and if it can be reproduced.

Customer is obliged to notify KE-works immediately of any errors.

- 4.4 If (an) acceptance test(s) has been agreed to, the test period of each acceptance test shall be fourteen days following delivery or, if it has been agreed in writing that KE-works will carry out the installation, following completion of the installation. Customer is not entitled to use the Custom-Made Software for productive or operational purposes during the test period. Customer shall carry out the agreed acceptance test on the (interim) results of the development work using appropriately qualified personnel, with an adequate scope and in sufficient depth, and will provide KE-works with a written, clear and understandable report on the test results.
- 4.5 If (an) acceptance test(s) has been agreed to, Customer shall be obliged to assess under its full and exclusive responsibility whether the Custom-Made Software delivered conforms to the functional or technical specifications made known by KE-works in writing and, the functional or technical specifications explicitly agreed between the Parties in writing. Except where agreed otherwise in writing, any assistance provided by or on behalf of KE-works during the performance of an acceptance test shall be entirely at the risk and expense of Customer.
- 4.6 The software shall be deemed to have been accepted between the Parties:
- if the Parties have not agreed to an acceptance test: on delivery or, if it has been agreed in writing that KE-works will carry out the installation, on completion of the installation, or
 - if the Parties have agreed to (an) acceptance test(s): on the first day following the respective test period, or
 - if KE-works receives a test report as referred to in Article 4.7 before the end of the respective test period: at such time as the errors described in the test report have been fixed,
- notwithstanding the presence of defects that do not preclude acceptance according to Article 4.8. Contrary to the above, if Customer uses the Custom-Made Software for productive or operational purposes before the time of explicit acceptance, the Custom-Made Software shall be deemed to have been accepted from the time at which such use commenced.
- 4.7 If on carrying out the agreed acceptance test it emerges that the Custom-Made Software contains errors, Customer shall notify KE-works of the errors no later than on the last day of the respective test period by means of a written and detailed test report. KE-works shall make every effort to fix the errors identified within a reasonable period of time, whereby KE-works shall be entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the Custom-Made Software.
- 4.8 Acceptance of the Custom-Made Software may not be withheld on grounds that do not relate to the specifications explicitly agreed between the Parties, nor due to the existence of minor errors, these being

errors that cannot reasonably be deemed to prevent the operational or productive use of the Custom-Made Software, without prejudice to KE-works' obligation to fix these minor errors within the context of the guarantee scheme in Article 5, if and in so far as applicable. Acceptance may also not be withheld on the basis of aspects of the Custom-Made Software that can only be assessed subjectively, such as aesthetic aspects and aspects relating to the design of user interfaces.

- 4.9 If the Custom-Made Software is delivered and tested in stages and/or parts, the non-acceptance of a specific stage and/or part shall not affect the acceptance of a previous stage and/or other part, where appropriate.
- 4.10 Acceptance of the Custom-Made Software by one of the methods referred to in this Article shall mean that KE-works is discharged in respect of compliance with its obligations in relation to the development of the Custom-Made Software and, if it has been agreed that KE-works will carry out the installation, with its obligations in relation to the installation of the Custom-Made Software. Acceptance of the Custom-Made Software shall not affect Customer's rights pursuant to Article 4.6 in relation to minor errors and Article 5 in relation to the guarantee scheme.

5 GUARANTEE

- 5.1 KE-works shall not guarantee that the Custom-Made Software developed on behalf of Customer will be suitable for the actual and/or envisaged use by Customer. KE-works shall also not guarantee that the Custom-Made Software will operate with no interruptions, errors or other defects or that all errors and defects will always be fixed.
- 5.2 KE-works shall make every effort to fix errors in the Custom-Made Software within the meaning of Article 4.3 of this module within a reasonable period of time if KE-works receives detailed, written notification of these errors within a period of three months following delivery or, if the Parties have agreed to an acceptance test, within three months of the respective acceptance. Errors shall be fixed free of charge, unless the Custom-Made Software was developed on behalf of Customer other than at a fixed price, in which case KE-works shall invoice the costs associated with fixing the errors at its standard rates. KE-works shall be entitled to invoice the costs of fixing errors at its standard rates in the event of operational errors or improper use by Customer, or other causes that are not attributable to KE-works, or if the errors could have been discovered during the execution of the agreed acceptance test. KE-works shall not be obliged to fix errors if Customer has made changes to the Custom-Made Software, or has arranged for this to be carried out, without the written consent of KE-works. Such consent shall not be withheld on unreasonable grounds.
- 5.3 The fixing of errors shall take place at a location to be determined by KE-works. KE-works shall be entitled to install temporary solutions, program bypasses or

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problem-avoiding restrictions in the Custom-Made Software at any time.

- 5.4 Under no circumstances shall KE-works be obliged to recover scrambled or lost data.
- 5.5 KE-works shall not be obliged to fix errors that are reported following expiry of the guarantee period referred to in Article 5.2 of this module.

6 LIABILITY

- 6.1 Customer shall not be liable to KE-works for any general, special, direct, indirect, consequential, incidental, or other damages arising out of infringement of third Party intellectual property rights through the use of the Custom-Made Software of KE-works.
- 6.2 KE-works shall not be liable to Customer for any general, special, direct, indirect, consequential, incidental, or other damages arising out of the use of the Custom-Made Software.

7 MAINTENANCE AND SUPPORT

- 7.1 KE-works' performance obligations shall not include the maintenance of the Custom-Made Software and/or the provision of support to the users of the Custom-Made Software unless otherwise agreed upon

8 SOFTWARE FROM THIRD PARTY SUPPLIERS

- 8.1 If and in so far as KE-works provides Customer with software from third parties, the (license) terms imposed by such third parties in relation to the Custom-Made Software shall apply, provided that KE-works has notified Customer of such terms in writing, notwithstanding any varying provisions in these GTC. Customer accepts the abovementioned terms imposed by third parties. These terms shall be available to Customer for inspection and KE-works shall provide Customer with a copy of the terms free of charge upon request. If and in so far as the abovementioned terms imposed by third parties in the relationship between Customer and KE-works are deemed not to apply for any reason whatsoever, or are declared to be inapplicable, the provisions of these GTC shall apply in full.

MODULE 2: CONSULTANCY SERVICES

1 APPLICABILITY

- 1.1 The KE-works General Terms and Conditions (hereinafter referred to as: "GTC") consist of this General module as well as specific modules per service. The provisions of this module shall apply in addition to the provisions of the General module in the event that KE-works provides Consultancy Services to the Customer.
- 1.2 The provisions of this module are inextricably linked with the provisions of the General module. In the case of conflict between the provisions in the General module and the provisions of this Module, this Module shall prevail.
- 1.3 The scope of the consultancy services is as specified in Annex A hereto.

2 INTELLECTUAL PROPERTY RIGHTS

- 2.1 All intellectual property rights related to the deliverables, such as content of advice or reports, of the Consultancy Service shall be transferred to Customer after completion of the deliverables and payment has been received in full.
- 2.2 All intellectual property rights related to the working procedures, methods and techniques related to the Consultancy Services on the basis of any Order shall remain exclusively vested in KE-works, its licensors or its own suppliers.

3 SERVICES

- 3.1 KE-works shall make every effort to ensure that the services are provided with due care and in accordance with the arrangements and procedures agreed in writing with Customer where applicable. KE-works shall provide all services on the basis of a best efforts obligation.
- 3.2 The term of an Order shall depend on a number of factors and circumstances, such as KE-works' efforts, the quality of the data and information provided by Customer and the cooperation of Customer and relevant third Parties. Except where agreed otherwise in writing, KE-works shall therefore not commit to a specific assignment term in advance.
- 3.3 If it has been agreed that the service will be provided in stages, KE-works shall be entitled to delay the start of the services associated with a stage until such time as Customer has approved the results of the previous stage in writing.
- 3.4 KE-works shall only be obliged to follow timely and well-founded instructions issued by Customer during the performance of the service if this has been agreed in writing. KE-works shall not be obliged to follow instructions that change or extend the content or scope of the agreed service. If such instructions are followed, however, compensation shall be provided for the work in question in accordance with KE-works' standard rates.
- 3.5 Even if the Order for the provision of services has been entered into, with a view to implementation by a

specific individual, KE-works shall at all times be entitled to replace this individual with one or more other individuals with the same qualifications.

- 3.6 Except where agreed otherwise in writing, the use made by Customer of advice issued by KE-works shall in all cases be at Customer's risk and expense.
- 3.7 The Representatives, assigned by KE-works to Customer are and shall remain employed by KE-works. In accordance herewith, these GTC and the Orders hereunder shall not constitute and shall not be construed as an employment of said Representatives by Customer. KE-works shall defend, release and indemnify Customer from and against claims in connection herewith.
- 3.8 The Work shall be performed at KE-works Office in The Netherlands, any of Customer's premises in the Netherlands, or other Customer defined locations in conformity with the relevant provisions in the related Order. If applicable, Customer shall provide KE-works' Representatives with adequate office accommodation and/or facilities, in conformity with Customer standards.
- 3.9 KE-works shall appoint a qualified coordinator who shall represent KE-works in respect of all daily affairs regarding the performance of the Work and/or any aspect thereof.
- 3.10 Customer's standard working hours shall also be applicable in respect of KE-works' Representatives, unless the Parties hereto agree otherwise in writing. All working hours applied to the Work by the respective Representatives shall be registered. The Parties hereto shall reach mutual consent, prior to the commencement of the Work, in respect of any holidays and/or days off for the Representatives assigned to Customer hereunder.
- 3.11 Without prejudice to any of its other rights, Customer shall have the right to require replacement of any Representative, assigned by KE-works to Customer hereunder, within a maximum of five (5) working days after notification in writing by Customer to KE-works, if and to the extent the respective Representative fails to meet the required qualifications in accordance with the provisions set forth in the Order.
- 3.12 Customer reserves the right, for security reasons, to subject the respective Representatives to a screening procedure on Customer expense. By Customer's request, KE-works shall be responsible for the performance of said screening procedure.
- 3.13 If the aforesaid screening procedure results in a refusal by Customer to admit one or more of KE-works' Representatives, KE-works shall replace said Representatives in accordance with the provisions as set forth in the Order.
- 3.14 KE-works warrants, if agreed in writing that the Work requires and validated the execution of the Order by Key Representatives, that Work shall be performed for the entire duration of the work by the Key Representatives as defined in the Order. Only in case Key Representatives terminate their employment/partnership with KE-works, KE-works

shall be allowed to replace the Key Representatives, provided that;

- a. Customer is informed of such termination and the applicable date as soon as possible;
- b. The Representative(s) replacing such Key Representatives possess at least the same experience, education and qualifications;
- c. Such Representative(s) is/are acceptable to Customer;
- d. A replacement shall not result in any Price/rate increase for Customer;

3.15 KE-works shall not be entitled to make commitments of any kind in the name of or on the account of Customer as an agent or otherwise, or to assume or create any obligation, express or implied, on behalf of Customer or to bind Customer in any respect, without Customer's prior written consent thereto. Any obligation required directly out of or in connection with the Work pursuant to any Order shall exclusively be entered into by Customer.

KE-works shall impose on its Representatives an obligation identical to the provision set forth herein.

4 REPORTING

4.1 KE-works shall periodically inform Customer in the manner agreed in writing with regard to the implementation of the Work via the contact person designated by Customer. Customer shall notify KE-works in advance of any circumstances that affect or may affect KE-works, such as the method of reporting, the issues that Customer wishes to focus on, Customer's priorities, the availability of Customer's resources and personnel, special facts and circumstances and facts and circumstances of which KE-works may not be aware. Customer shall be responsible for the further distribution and examination of the information provided by KE-works within Customer's organisation and shall assess this information partly on the basis of this and notify KE-works accordingly.

4.2 If an employee deployed by KE-works forms part of a project or steering group which also includes one or more individuals designated by Customer, the provision of information shall take place in the manner prescribed for the project or steering group. Decisions reached within a project or steering group with this composition shall only have a binding effect on KE-works if the decision-making process takes place subject to due observance of the agreements reached between the Parties in writing or, if no agreements have been made in this regard, if KE-works has accepted the decisions in writing. KE-works shall under no circumstances be obliged to accept a decision that it deems to be incompatible with the content of these GTC and/or any Order hereunder. Customer shall guarantee that the individuals it designates form part of a project or steering group that also includes KE-works' employees are authorised to take decisions that will have a binding effect on Customer.

4.3 In connection with the continuity of the work, Customer shall designate a contact or contacts who will act in this capacity for the duration of KE-works' activities. Customer's contacts shall have the necessary experience, specific relevant knowledge and an insight into Customer's desired objectives.



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