

SMART CONSTRUCTION TERMS AND CONDITIONS FOR CONSULTANCY SERVICES

These terms and conditions for providing the Smart Construction consultancy services (“**Services Terms**”) set forth the terms and conditions under which Komatsu Europe International NV, Mechelsesteenweg 586, 1800 Vilvoorde, Belgium (“**Company**”, “**we**”, “**us**” or “**our**”) agrees to provide consultancy services to professional customers (“**Customer**”, “**you**” or “**your**”).

By signing these Services Terms or any order form which explicitly refers to, incorporates and/or is accompanied by these Services Terms, you confirm that you are a duly authorized representative of your organization acting as Customer and you acknowledge to have received, read and to fully agree with these Services Terms in their entirety without reservation, including the limitations of liability and disclaimers of warranty contained herein. Such acceptance of the Services Terms and the subsequent acceptance of your order by Company is a binding legal agreement between you and Company (“**Services Agreement**”).

Article 1 Interpretation and Definitions

1.1. For the purposes of these Services Terms, singular words shall be interpreted as also including the plural and vice versa, “including” shall mean “including but not limited to”, and “in writing” shall mean “hand-written, type-written, printed or electronically made and communicated with proof of receipt” and the following concepts shall have the meaning as specified hereafter:

- a. **Affiliate**: means, with respect to each Party, any corporation, firm, partnership or other entity which directly or indirectly controls or is controlled by or is under common control with that Party. For purposes of this definition, “control” shall be presumed to exist if one of the following conditions is met: (a) direct or indirect ownership of at least fifty percent (50%) of the stock or shares having the right to vote for the election of directors, and (b) the ability, directly or indirectly – for example through one or more intermediaries - to direct or cause the direction of the management and policies of an entity.
- b. **App**: the software that may be provided by Company to Customer under a software-as-a-service model.
- c. **App Terms**: the Smart Construction Applications Terms and Conditions as well as any Specific Terms and Conditions which apply to Customer’s use of the App and which Customer must accept through the Smart Construction Portal.

- d. **Business Day**: All days of the week, except for Saturdays, Sundays and official Belgian holidays.
- e. **Confidential Information**: any information, data, materials or knowledge kept in whatever form (whether on paper or transmitted or stored electronically) belonging to, concerning or under the control of one of the Parties (the “**Disclosing Party**”) which is made available or disclosed to the other Party (the “**Receiving Party**”) in connection with the Services Agreement and which is commercially proprietary, sensitive, non-public or confidential by nature, whether or not explicitly indicated as such by one of the Parties. Information that in any case shall be considered as confidential: (i) trade secrets, (ii) technical details (including software, both in source and object code, non-public documentation, designs, drawings and plans) of and knowhow about any products (including equipment, technical processes, applications, hardware, web and other interfaces) made available, made accessible or supplied by a Party (iii) all data of Company and/or its customers, distributors, partners and suppliers, (iv) the Customer Data, (v) information regarding business operations and strategies, and (vi) the contents of the Services Agreement. Information which shall not be considered as confidential: any information for which the Receiving Party can demonstrate that (i) it was in the possession of, or was rightfully known by, the Receiving Party without an obligation

to maintain its confidentiality prior to receipt from the Disclosing Party; (ii) was or has become generally available to the public other than as a result of disclosure by the Receiving Party or its agents; (iii) after disclosure to the Receiving Party, was received from a third party who, to the Receiving Party's knowledge, had a lawful right to disclose such information to the Receiving Party without any obligation to restrict its further use or disclosure; (iv) was independently developed by the Receiving Party without use of or reference to any Confidential Information of the Disclosing Party; or (v) that the Disclosing Party has disclosed to unaffiliated third parties without similar restrictions.

- f. **Customer Data**: the data pertaining to Customer's assets, activities and resources, the accuracy, quality and back up of which is the sole responsibility of Customer at all times, and which Customer provides to Company for the provision of the Services.
- g. **Deliverable**: the deliverable identified in the Purchase Order which Company will provide as part of the Services.
- h. **Effective date**: means the date on which the Services Agreement commences as agreed between the Parties, which, unless explicitly agreed otherwise, is the date of acceptance by Company of the duly executed Purchase Order by Customer or signed Services Terms, whichever comes first .
- i. **Fee**: the hourly, daily, weekly or monthly rate, or the fixed amount, to be charged by Company for the provision of the Services.
- j. **Force Majeure**: circumstances of hardship or force majeure as defined in the ICC Hardship and ICC Force Majeure Clause (Long Form), incorporated in this Services Agreement by reference and applicable in full to any order issued hereunder. Under no event will any circumstance of Force Majeure excuse a Party from its obligations to make payments when due under this Services Agreement unless such circumstance results in a failure of a banking system that deprives a Party access to otherwise available funds, of which concrete proof

will be provided by the claiming Party. In such a case, payment will immediately be made as soon as the event has been resolved.

- k. **Hardware**: the hardware sensors, controllers and other components which may be installed in and/or on construction machines as well as any other physical accessories provided by Company to the Customer.
- l. **Intellectual Property Rights**: all brands, logos, trademarks, service marks, internet domain names, models and designs, patents, copyrights (including all rights relating to software) and moral rights, rights relating to databases, software, knowhow, and other rights, as well as all other industrial and intellectual rights, in any case independent from whether or not they have been registered and with the inclusion of registration applications as well as all equivalent rights or means of protection leading to a similar result anywhere in the world.
- m. **Party (or Parties)**: Company and Customer are each a party and are jointly referred to as the parties.
- n. **POC Terms**: the Smart Construction Proof of Concept Terms and Conditions which apply to Company providing innovative solutions under the Smart Construction brand to Customer as part of a proof of concept with the sole purpose of allowing Customer to test these solutions.
- o. **Purchase Order (or PO)**: the purchase order document which Customer uses to order the Services, which provides a description and timeline of the Services as well as, to the extent applicable, a list of milestones and Deliverables, and the execution of which signifies Customer's acceptance with these Services Terms.
- p. **Services**: the consultancy services provided by Company to Customer described in the Purchase Order or otherwise agreed upon in writing.
- q. **Simulation Services**: the Services concerning optimum construction plan design on the basis of jobsite simulation exercises for which company uses the SC Simulation app, to which Company may decide to grant Customer temporary

access to show the results of the Simulation Services.

- r. **Solution:** the App(s) and Hardware used together as solution offered by Company under the Smart Construction trade name or trademark.
- 1.2. Capitalized terms used in these Services Terms which are not defined in these Services Terms, are defined in the App Terms. Customer understands and agrees that acceptance with the App Terms, subject to any amendments thereto in these Services Terms, is an essential requirement for entering into the Services Agreement when the Services pertain in whole or in part to consultancy services related to the use of the Apps made available by Company. When and to the extent that the Services are provided as part of a proof of concept, Customer will also be required to accept the POC Terms.
- 1.3. In case of a conflict between or among these Services Terms, the POC Terms and the App Terms, the App Terms will prevail, then the POC Terms and then the Services Terms unless there is an explicit provision in these Services Terms that identifies the provisions of the App Terms or POC Terms intend to amend or override.
- 1.4. The language of, and under, these Services Terms, including for the Services and the Deliverables, will be English. Company has the right, however, to provide courtesy translations of the documentation and all materials provided in relation to the Services.
- 1.5. Where reference is made to certain laws or regulations, such reference shall also include any change, replacement or annulment of said laws or regulations, including any related executive decisions.

Article 2 Subject matter

- 2.1. These Services Terms govern the terms and conditions under which Company will provide the Services and Deliverables to Customer.

Article 3 Relationship between the Parties

- 3.1. In making and performing the Services Agreement, at all times, Parties will act as independent organisations and each Party's representatives, employees, subordinates, officers, agents, managers, subcontractors or any other delegates (hereinafter referred to as "**Representatives**") involved in the performance of the Services Agreement will

remain under the sole responsibility, guidance, authority and supervision of that Party.

- 3.2. None of the provisions of the Services Agreement, whether express or implied, can be interpreted or construed as indicating consent by the Parties to create any employer – employee or agency relationship, nor any franchise, joint venture or any partnership whatsoever between the Parties.
- 3.3. Parties shall not be entitled to legally represent or bind one another to pledge the other Party's credit or in any other respect, such as, for instance, by entering into agreements or understandings or by accepting or assuming other rights and obligations on behalf of the other Party.
- 3.4. Parties are each solely and exclusively responsible for their own social, labor, tax, and other legal obligations as well as any levies, fees and charges which may be incumbent upon a Party as a consequence of such obligations.
- 3.5. Company is an independent service provider over whom Customer has no authority nor the right to exercise any control or supervision as an employer would control or supervise its employees. Without prejudice to the foregoing and to the extent that Company operates as an individual consultant when providing the Services, Customer shall be allowed to issue the following type of instructions to ensure the proper provision of the Services:
 - a. the planning and the milestones of the provision of the Services;
 - b. opening hours of Customer's premises when Services are to be rendered there, and the times when work breaks are habitually planned;
 - c. access conditions to Customer's premises;
 - d. compliance with Customer's internal policies, procedures and methods to the extent they are relevant in relation to the provision of the Services;
 - e. changes pertaining to provision of the Services which are required due to changed circumstances in Customer's business environment/setup;
 - f. how to use Customer's infrastructure, systems, software and other processes;
 - g. how and why to process Customer's personal data.

Article 4 Performance of the Services

- 4.1. Company warrants that it shall provide the Services in a professional and loyal manner and in accordance with industry good practice and that it has the necessary skills, expertise and experience to provide the Services.
- 4.2. Except for the Services which are by their nature obligations to achieve a result, the Services shall be provided by Company on a best efforts basis. Any timings set forth in the Purchase Order shall in any case be construed as best efforts obligations only.
- 4.3. The Services will be rendered at Company's premises, unless agreed otherwise in writing. However, to the extent relevant for the provision of the Services Customer shall provide Company and Company's Representatives with the relevant safety and security documents and instructions prior to any on-site visit of Company's Representatives. Customer remains at all times responsible for the safety and security on its premises and jobsites and warrants to have procured the necessary insurance coverage to cover its liabilities arising out of an accident, including for its liability for physical/mental harm to or death of Company's Representative.
- 4.4. The accuracy and usefulness of the results of the Services heavily depends on the accuracy and quality of the Customer Data, on external factors such as jobsite conditions, weather conditions, etc., and on correct interpretation of these results. Considering these variables beyond Company's control, Company can never guarantee complete accuracy and truthfulness of such results. Customer acknowledges and agrees that the Services are meant to support Customer's decisions but that the results of the Services should only be interpreted and used by trained staff members experienced in resource optimization, forecasting, budgeting and jobsite planning.
- 4.5. Customer acknowledges to fully understand the nature and scope of the Services and, without prejudice to the provisions of Article 9 and Article 10, agrees make available and/or accessible to Company pro-actively and in a timely manner any information, hardware, software, equipment, data, premises and other resources required for Company to perform the Services and supply the Deliverables. Company and its Affiliates have no obligation nor means to verify accuracy and truthfulness of the Customer Data.
- 4.6. Company shall treat this Customer Data with reasonable care and shall not use the access to Customer's premises, network, communication and information infrastructure, systems, software and/or data in any way that may be considered unlawful, harmful, fraudulent or in any way damaging to Customer, Customer's clients or suppliers or any other third party. Company shall among others keep all access credentials to Customer's systems personal and confidential. Company will also refrain from accessing, altering, deleting, or in any other way interacting with systems and software unless such accessing, altering, deleting, or interacting is necessary for the supply of the Services and in accordance with any instructions issued by Customer.
- 4.7. When Parties agree on certain Deliverables in writing as part of the Services, the Deliverables will be provided to Customer "as is" and "as available", unless explicitly otherwise agreed between Parties. Customer shall inspect the Deliverable and shall inform Company in detail of any defect within ten (10) Business Days after having received the Deliverable. Company shall remedy a demonstrable and verifiable defect within a reasonable timeframe.

Article 5 Simulation Services

- 5.1. To the extent that Simulation Services will be provided by the Company, the Company reserves the right to decide at its own discretion to provide Customer with access to the SC Simulation App to show the results of the Simulation Services. Customer acknowledges and agrees that entering into the Services Agreement for Simulation Services does not automatically entail access and usage rights to the SC simulation App. The App is highly specialized and Customer understands that it must have specialist knowledge and capabilities to use the App successfully. The App requires a working internet connection and a compatible browser and is not intended to be used on a mobile device such as a phone or a tablet. If Company authorizes Customer explicitly to use the App on its own, Customer shall only use the App for the purposes as set forth

herein and in accordance with the corresponding documentation made available by Company. In no event will Customer use the App as its sole solution for issuing safety-, security- or hazardous incident-related warnings, nor as Customer's only mechanism for evacuation, rescue or first aid. Customer is responsible to ensure that its use of the Services complies with all laws and regulations which apply to Customer's activities and/or in Customer's local jurisdiction.

Article 6 Non-competition

- 6.1. Customer shall refrain, for the duration of the Services Agreement and one (1) year thereafter, from using any knowhow, knowledge, experience, information or insights gained from the Services or the Deliverables to develop or bring to market, or allow a third party to develop or bring to market, services, software or solutions which compete, directly or indirectly, within Europe with the Services.
- 6.2. In case of an infringement of clause 6.1 above, Customer shall be held to pay, immediately and without notice of default, liquidated damages in the amount of EUR 50.000,00, without prejudice to Company's right to full compensation for higher proven damages.

Article 7 Start and termination of the Services

- 7.1. The start and end date of the provision of the Services are set forth in the PO or agreed upon otherwise in writing, unless the Services are rendered continuously in which case only the start date is set forth.
- 7.2. If nothing has been determined in writing, the start date of the Services shall correspond with the Effective Date.

Article 8 Pricing and invoicing

- 8.1. The Fee shall always be in euro and excludes travel, transport, accommodation costs, VAT and other governmental levies/taxes. The Fee, which can be fixed or time and materials based, and unit details shall be listed in the PO or otherwise agreed upon in writing. Travel, transport and accommodation expenses shall be charged separately and in line with market prices.
- 8.2. When the Services pertain in whole or in part to consultancy services related to the use of the Apps, Hardware or other products made

available by Company, such products are not included in the Fee and will be charged separately.

- 8.3. Company has the right to index the Fee once a calendar year. The calculation will be done on the basis of the index for the month of December and the prices will be applicable as of the month of January. The following formula applies for the calculation of the price revision:

$$P = P_{-1} \times \left[0.2 + 0.8 \frac{S}{S_{-1}} \right]$$

where:

P = the revised price;

P₋₁ = the original Fee;

S = the new salary and social security charges index as published by Agoria, valid on the date of application of the price revision;

S₋₁ = the salary and social security charges index as published by Agoria, valid one year before the date of application of the price revision.

- 8.4. The Fee will be invoiced on a monthly basis for Services rendered in the previous month, unless Parties have agreed on a fixed amount, in which case they shall agree on a dedicated invoicing scheme. The invoice is payable within thirty (30) days after the end of the month in which Customer receives the invoice. Customer agrees that Company will send the invoice electronically via e-mail.
- 8.5. Company reserves the right to withhold delivery of a Deliverable until such moment when all outstanding invoices have been paid. Customer is not allowed to proceed to settlement or set-off of any debts.
- 8.6. If Customer does not agree with an invoice, Company must be informed of this in writing within 8 days and Customer shall in any case be held to pay the undisputed part of the invoice. After this period, all invoices shall be deemed to have been accepted.

Article 9 Confidentiality

- 9.1. The Disclosing Party shall at all times remain the sole owner of all rights and title to the Confidential Information and nothing in this Services Agreement shall be interpreted as a transfer, in whole or in part, of such rights or title to the Receiving Party.
- 9.2. As long as the Confidential Information has not become public knowledge, the Receiving Party shall:

- a. use the Confidential Information solely to fulfil its obligations hereunder and for no other purpose;
 - b. not make any copies or reproductions without the prior written consent of the Disclosing Party (which may be withheld in absolute discretion), regardless of the technical medium of the Confidential Information;
 - c. store the Confidential Information in a secure place so as to effectively protect it from any (i) third-party claim or intervention, and/or (ii) unauthorized or improper access to or use of the Confidential information and take all appropriate precautions in its business premises and information security set-up to ensure confidentiality in accordance with the provisions of this Services Agreement, including but not limited to, maintaining the security of the servers and devices on which it stores the Confidential Information;
 - d. treat the Confidential Information as strictly confidential, hold it in strict trust and confidence and shall not directly or indirectly disclose or make such Confidential Information accessible, by publication or otherwise, to any person or entity whatsoever except for disclosure on a strict “need-to-know” basis to:
 - those of its employees, contractors, and Affiliates, and/or employees thereof, who have a need to know such information in order to be able to engage in the discussions and/or cooperate with the Disclosing Party effectively or its legal advisors, provided that any such person or entity is made aware of and is bound in writing to the same or materially equivalent obligations as those of the Receiving Party set forth in this Services Agreement prior to the disclosure. The Receiving Party shall ensure that the obligation of confidentiality shall also extend beyond the termination of the respective employment or subcontracting contract(s).
 - any other third party or entity that has a need to know such information in order to be able engage in the discussions and/or cooperate with the Disclosing Party effectively, provided that they are made aware of and are bound in writing to the same or materially equivalent obligations as those of the Receiving Party set forth in this Services Agreement prior to the disclosure, after prior written consent of the Disclosing Party.
 - e. notify the Disclosing Party immediately if and when it becomes aware that the Confidential Information has been disclosed to or is in the possession of any person who is not authorized by this Services Agreement to receive the Confidential Information;
- 9.3. The Receiving Party shall ensure that any third party, including directors, officers, shareholders, employees, (sub)contractors, (vicarious) agents or representatives and Affiliates, and their directors, officers, shareholders, employees, (sub)contractors, (vicarious) agents and representatives, who wholly or partly receive in any way or format, orally or in writing, or have directly or indirectly access to any Confidential Information, will also comply with its obligations set forth in this Article 9. The Receiving Party will be liable for any breach of the obligations under this Article 9 by any such third-party, including – but not limited to - directors, officers, shareholders, employees, (sub)contractors, (vicarious) agents or representatives and Affiliates, to which the Receiving Party disclosed the Confidential Information. Upon request, the Receiving Party shall inform the Disclosing Party about the names and functions of these third parties.
- 9.4. If any unauthorised disclosure, loss of, or inability to account for any Confidential Information of the Disclosing Party occurs,

the Receiving Party will promptly notify the Disclosing Party and will cooperate with the Disclosing Party and take such actions as may be necessary or reasonably requested by the Disclosing Party to minimize the violation and any damage resulting from it and to prevent a recurrence of the violation.

- 9.5. If the Receiving Party becomes legally compelled to disclose any Confidential Information of the Disclosing Party in a manner not otherwise permitted by this Services Agreement, the Receiving Party will provide the Disclosing Party with prompt notice of the request (unless legally precluded from doing so) so that the Disclosing Party may seek a protective order or other appropriate remedy. If a protective order or similar order is not obtained by the date by which the Receiving Party must comply with the request, the Receiving Party may furnish that portion of the Confidential Information that it determines it is legally required to furnish.
- 9.6. When Confidential Information of the Disclosing Party is no longer required for the Receiving Party's performance under this Services Agreement, or in any event upon expiration or termination of this Services Agreement, the Receiving Party will return all materials in any medium that contain Confidential Information of the Disclosing Party or, at the Disclosing Party's election, destroy them. At the Disclosing Party's request, the Receiving Party will certify in writing that it has returned or destroyed all copies of the Disclosing Party's Confidential Information in the possession or control of the Receiving Party's or any of its Affiliates or subcontractors.
- 9.7. Use of the Services will lead to the collection, use and storage of Customer Data. Without prejudice to the confidentiality obligations listed above, Company will only share the Customer Data with Company's affiliates, contractors, subcontractors or partners where such is necessary to (a) provide you the Service as described herein; (b) protect our interests or claims in legal proceedings or alternative dispute resolution mechanisms; (c) comply with applicable laws and regulations or with a valid request from a competent supervisory, judicial or other authority and (d) improve the Services. Company may also aggregate and anonymize

Customer Data, ensuring that data can no longer be attributed to the Customer at which time it shall no longer be considered Customer Data, and combine it with data of other customers to improve the Services, develop additional products and services, conduct market studies or allow our Affiliates and partners to do the same. When entering into this Services Agreement, you understand and agree with such collection and use of your Customer Data and you acknowledge that you will hold Company and its Affiliates harmless from any claim brought against us, our Affiliates or partners for such use of the Customer Data.

Article 10 Intellectual property

- 10.1. Parties shall each remain the owner of all Intellectual Property Rights they had prior to the signing of this Services Agreement.
- 10.2. The performance of each Party's obligations under this Services Agreement, including all works or materials which are results of providing the Services, shall not entail a transfer of any Intellectual Property Rights, industrial or other proprietary rights to the other Party.
- 10.3. Any Intellectual Property Rights, industrial or other proprietary rights with respect to the works and materials created and/or made available by Company, its employees, its consultants or subcontractors, whether or not created in performance of this Services Agreement, such as software, documentation, training materials, marketing materials or any other materials, documents, drawings, technology, skills, knowhow and information related to software, whether or not preceding the Effective Date of this Services Agreement, shall be vested exclusively in or licensed to Company and/or its respective licensors as the case may be.
- 10.4. Notwithstanding the previous clause 10.3, as from the moment of their creation, all Intellectual Property Rights related to the Deliverables shall automatically, irrevocably, worldwide and for the entire duration thereof under Belgian law, be transferred to Customer unless explicitly agreed otherwise between the Parties. Company and its Representatives shall refrain from claiming or obtaining, anywhere in the world, Intellectual Property Rights and any other

rights with regard to the Deliverables or similar protection.

- 10.5. The payment of the Fees by Customer to Company imply payment for the aforementioned transfer of Intellectual Property Rights to the Deliverables.

Article 11 Liability

- 11.1. Nothing in this Services Agreement shall exclude or limit either Party's liability for gross negligence, fraud or wilful misconduct.
- 11.2. To the extent allowed by mandatory law, and with the exception of liability as foreseen in clause 6.2 and Article 9, neither Party will be held liable for:
 - a. non-performance of its obligations under this Services Agreement where such is made impossible due to Force Majeure; or
 - b. for any indirect or consequential loss or damage suffered by the other Party or its Affiliates, such as any loss of opportunity, profits, revenue, turnover or any other indirect financial or commercial losses, whether this loss or damage arises from a breach of contract or duty in tort.
- 11.3. With the exception of liability as foreseen in clause 6.2, Article 9, and 13.2 and to the extent allowed under mandatory law, each Party's liability shall be limited to the total amount of Fees payable to Company for the Services during the last three (3) months preceding the event which gave rise to the liability or indemnification.
- 11.4. The maximum liability of each Party for claims arising out of or in connection with this Services Agreement cannot exceed 150.000 EUR in aggregate.
- 11.5. Neither Party shall be liable for any claim arising under the Services Agreement, unless it has received notice by registered letter of the claim within one (1) year after the end of the Services Agreement.

Article 12 Data protection

- 12.1. Each Party shall comply with its obligations under applicable data protection law, including but not limited to the requirements set forth in the General Data Protection Regulation (Regulation (EU) 2016/679).
- 12.2. When and to the extent that Company acts as a processor in the sense of Article 4.8 General Data Protection Regulation, Company will process the personal data entrusted by

Customer in accordance with this clause 12.2. This processing, including data transfers outside the EEA, will be performed only (a) upon Customer's documented instructions which will at minimum include for the purpose of performing the Services as described under this Services Agreement or (b) to comply with Company's legal or judicial obligations. If it is for the purpose of performing Company's legal or judicial obligations, Company will inform Customer immediately in writing in advance thereof, unless Company is legally or judicially not allowed to do so. All persons Company has authorised to process the personal data, have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality. Company will take all measures required pursuant to Article 32 GDPR, and will respect the conditions referred to in Articles 28.2 and 28.4 GDPR for engaging a sub-processor. Customer authorizes Company to engage other processors and agrees with the already engaged sub-processors. Such list of engaged sub-processors is available upon request. Taking into account the nature of the processing, Company will assist Customer to take appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Customer's obligations to respond to requests for exercising the data subject's rights laid down in Chapter III GDPR. Company will also assist Customer in ensuring compliance with the obligations pursuant to Articles 32 to 36 GDPR taking into account the nature of processing and the information available to Company. At Customer's choice, Company will delete or return all the personal data to Customer after the end of the provision of all Services relating to processing, and delete existing copies unless EU or Member State law requires storage of the personal data. Company will make available to Customer all information necessary to demonstrate compliance with Article 28 GDPR, and will allow for and contribute to audits, including inspections, conducted by Customer or another auditor mandated by Customer. Company will immediately inform Customer if, in Customer's opinion, an instruction infringes the GDPR or other EU or Member State data protection provisions. An audit can

be conducted if Company has been notified about it by registered mail at least three weeks in advance, maximum once per contract year, and on all days (between 9:00am-5:00pm) except on Saturdays, Sundays, days that are an official holiday in Belgium, and days on which Company is collectively closed because of holiday. Audits will be performed at Customer's expense.

Article 13 Non-solicitation

- 13.1. Customer warrants and undertakes, for the whole duration of the Services Agreement and until two (2) years after its termination for whatever reason, not to entice away or solicit for employment any staff from Company who have been directly or indirectly involved in the performance of the Services Agreement.
- 13.2. In case of a violation of this Article, Customer shall pay Company a compensation equal to the gross salary paid by Company to the employee during the last twelve (12) months of employment at Company.

Article 14 Term and termination

- 14.1. The Services Agreement commences on the Effective Date and shall terminate automatically upon the date when all Services have been rendered and all Deliverables have been supplied, unless Services are rendered continuously (in which case the Services Agreement is of indefinite duration), as set forth in the Purchase Order or otherwise agreed in writing.
- 14.2. Without prejudice to any of its other rights and obligations, either Party may at its option terminate the Services Agreement, without prior recourse to the courts, by notifying the other Party ("**Defaulting Party**") if any of the following events occurs:
 - a. the Defaulting Party becomes insolvent or unable to pay its debts as they become due or enters into or files (or has filed or commenced against it) a petition, arrangement, application, action or other proceeding seeking relief or protection under applicable bankruptcy laws; or
 - b. exceptional circumstances make any professional cooperation between Company and Customer irreparably impossible;
 - c. the Defaulting Party commits a material breach ("**Material Breach**")

of the Services Agreement that cannot reasonably be cured within five (5) Business Days after the other Party has become aware of the circumstances constituting the material breach and given the Defaulting Party notice of default.

The notification for termination shall be sent via registered letter stating the reasons for such termination. The date on which the other Party receives the notification shall be construed as the effective date of termination.

- 14.3. Termination for convenience is not possible during the term of the Services Agreement unless the Services Agreement is of indefinite duration. In the latter case each Party can terminate the Services Agreement, without referral to a judge or court or incurring compensation, by giving one (1) months' notice in writing.
- 14.4. Termination of this Services Agreement, for any reason, will not affect any accrued rights or liabilities or payments due or the coming into force or continuing in force of any provision of the Services Agreement which is expressly or by implication intended to come into or continue in force on or after termination.
- 14.5. Article 6, Article 9, Article 10, Article 11, Article 12, Article 13, shall in any case survive and continue in full force and effect in accordance with these terms notwithstanding the expiration or termination of the Services Agreement.

Article 15 Sub-contracting

- 15.1. Company may subcontract to third parties any of its obligations, in whole or in part, under this Services Agreement.
- 15.2. When Company uses sub-contractors, Company remains fully responsible and liable for its sub-contractor's compliance with what has been set forth herein.

Article 16 Warranty

- 16.1. To the extent allowed under mandatory law, Company shall make best efforts to perform its obligations under these Services Terms and makes no express or implied warranties in connection with the Services or Deliverables, including in particular the fitness for a particular purpose, merchantability or the compliance thereof with any legal or regulatory requirement,

unless agreed otherwise in these Services Terms.

- 16.2. Customer acknowledges that its regulatory obligations and compliance procedures remain its sole responsibility and that Customer alone is responsible for compliance of its procedures with legal and regulatory requirements.
- 16.3. To the extent that the Company decides to grant Customer access to the SC Simulation App, such App is provided on an “as is” and “as available” basis. Customer understands and agrees that the Simulation Services are provided in a novel and dynamic environment, meaning that the SC Simulation App is subject to change from time to time and that availability of certain features and functions may vary over time and geography. Company may at all times decide to suspend, modify or permanently cancel the whole or part of the SC Simulation App. The SC Simulation App requires maintenance, including updates and upgrades, from time to time, which may lead to temporary unavailability of one or more features of the SC Simulation App. Company will make commercially reasonable efforts to inform Customer in a timely manner of such unavailability.

Article 17 Entire Agreement

- 17.1. The Services Agreement constitutes the entire agreement between the Parties with respect to its subject matter and, from the Effective Date, supersedes all prior representations, writings, negotiations or understandings with respect to that subject matter. Parties acknowledge and agree that their entering into the Services Agreement has not been based on any communication, representation, commitment, warranty, or surety with which the Parties have not agreed in writing.

Article 18 Waiver

- 18.1. No failure to exercise or any delay in exercising any right, power or remedy by a Party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the Party granting that waiver unless made in writing.

Article 19 Assignment

- 19.1. Parties may not assign any of their rights or obligations under these Services Terms, unless with the prior written consent of the other Party, except for the Assignment by Company to one of its Affiliates.

Article 20 Severability

- 20.1. If any provision in or any part of these Services Terms is or becomes invalid, non-binding or unenforceable, such provision will be severed from the Services Terms, the remainder of these Services Terms will remain in full force and effect, and the Parties will negotiate in good faith to replace the severed provision with a provision that achieves, to the greatest extent possible, the intent of the severed provision.

Article 21 Dispute resolution and applicable law

- 21.1. These Services Terms and all respective rights and obligations of the Parties shall be governed by and shall be construed in accordance with the laws of Belgium without reference to its conflict-of-laws or similar provisions that would mandate or permit application of the substantive law of any other jurisdiction. For the avoidance of doubt, the UN Convention on Contracts for the International Sale of Goods shall not apply.
- 21.2. Any dispute arising out of or in connection with this Services Agreement shall be finally settled by arbitration proceedings conducted in English in accordance with the CEPANI rules of ARBITRATION by a panel of three arbitrators (unless otherwise agreed in writing by the Parties) appointed in accordance with such rules. The place of any hearing shall be Brussels and the sole language of the arbitration proceedings shall be English.