

TERMS AND CONDITIONS

GENERAL TERMS

1 DEFINITIONS

The following terms are capitalised in these General Terms and Conditions (these "**Conditions**"), both in the singular and in the plural. These terms have the following meanings:

Agreement: The agreement between DEPT® and the Client concerning the specific provisions of the Service.

Annex: Appendixes to these Conditions with more specific provisions relating to the Service to be provided.

Client: The natural person or legal entity that has concluded, or is going to conclude, an Agreement with DEPT®.

Conditions: These general terms and conditions of DEPT® including all applicable Annexes.

DEPT®: Contracting Party: Dept Holding B.V., acting under the name of DEPT®, and all of its subsidiaries and other affiliate companies that have declared these Conditions to be applicable.

IP-Rights: All intellectual property rights and associated rights such as copyrights, trade mark rights, patent rights, design rights, trade name rights, database rights and related rights, as well as rights to know-how and performances on a par with these rights.

Parties: DEPT® and the Client.

Personal Data: any information relating to an identified or identifiable natural person ("**data subject**"); within the meaning of Section 4 paragraph 1 of the General Data Protection Regulation (GDPR) 2016/679/EU ("**GDPR**").

Service: The Services to be provided to the Client by DEPT® pursuant to the Agreement, including, if applicable, results of these Services.

2 GENERAL

- 2.1 These Conditions apply to and form an integral part of all offers and quotations of DEPT®, Agreements and any other legal acts related thereto between DEPT® and the Client and/or its legal successor. The specific Annexes also apply as agreed between DEPT® and Client. If this general part of these Conditions is contrary to or incompatible with any other specific provision as included in the Annex(es) agreed between DEPT® and the Client, the specific provisions in the Annex(es) concerned prevail.
- 2.2 If these Conditions state that an act must be carried out in writing, this is deemed to refer to email as well. Electronic communication between the Parties is deemed to have been received on the day it was sent, unless proof to the contrary is furnished.
- 2.3 Any variations on these Conditions are only valid if they have been agreed explicitly in writing by DEPT® and the Client, and they only apply to the specific Agreement for which they were agreed.
- 2.4 The Client's generally applied purchase- and/or other conditions do not apply to any legal relationship between the Parties.
- 2.5 Once these Conditions have been applied to a legal relationship between DEPT® and the Client, the Client is deemed to have agreed in advance to the applicability of these Conditions to any Agreements concluded or to be concluded thereafter.
- 2.6 If and insofar as any provision in these Conditions is declared to be non-binding, the other provisions of these Conditions remain in full force. In that case the Parties shall replace the non-binding provision with a provision which differs as little as possible from the non-binding provision in terms of both content and scope.
- 2.7 In the event of a conflict between provisions in an Agreement and these Conditions, the provisions in the Agreement prevail. In the event of a conflict between these Conditions and a specific Annex, the provisions in the specific Annex(es) prevail.
- 2.8 DEPT® is authorised to unilaterally amend these Conditions. The Client shall be informed to that effect in writing and DEPT® shall make the new version of the Conditions available to the Client.
- 2.9 The applicability of Sections 7:404, 7:407 paragraph 2 and 7:409 of the Dutch Civil Code is hereby excluded.

3 QUOTATIONS AND FORMATION OF THE AGREEMENT

- 3.1 Quotations and other offers by DEPT® are given without obligation and must be regarded as an invitation to enter into an Agreement, unless DEPT® has explicitly indicated otherwise in writing.
- 3.2 Offers and quotations lose their validity thirty (30) calendar days after their date, unless otherwise indicated in writing.
- 3.3 The Client guarantees that the details disclosed by, or on behalf of it, to DEPT®, on which DEPT® has based its offer, are correct and complete. If those details should prove not to be correct or complete, DEPT® is entitled to modify its offer.
- 3.4 An Agreement is concluded by written confirmation from the Client of an unmodified valid quotation and/or offer made by DEPT®.
- 3.5 Orders placed by the Client are irrevocable.
- 3.6 DEPT® is authorized at all times to terminate the negotiations with the Client at any time without stating reasons and without being liable for any

loss and/or damages caused as a result, and without being obligated to continue the negotiations.

4 PERFORMANCE OF THE AGREEMENT AND DELIVERY

- 4.1 DEPT® shall perform the Agreement to the best of its knowledge and ability and in accordance with the standards of the profession, such on the basis of the latest scientific and technical knowledge (*state of the art*). The obligations of DEPT® on the basis of the Agreement should be interpreted as a duty to perform. Any arrangements about the level of the Service to be provided shall always be agreed in writing in a Service Level Agreement.
- 4.2 Parties shall determine the delivery term and delivery dates as well as the place and manner in which the Services shall be delivered and/or provided in the Agreement. The duration of an assignment depends on various factors and circumstances, such as the quality of the data and information disclosed by the Client and the cooperation of the Client and relevant third parties. The delivery terms are therefore not to be interpreted as strict deadlines. In the event that a delivery term or other term is exceeded, or is likely to be exceeded, Parties shall consult with each other as soon as possible in order to take suitable measures. Any delay, for whatever reason, with respect to agreed delivery times does not give any entitlement of the Client to receive loss and/or damages or any other form of compensation from DEPT®, unless explicitly agreed otherwise in writing between DEPT® and the Client.
- 4.3 If it has been agreed that the Agreement shall be performed in phases, DEPT® is authorised to postpone the commencement of the Services that form part of a subsequent phase until the Client has approved the results of the prior phase in writing.
- 4.4 DEPT® is not obligated to follow any instructions by the Client and/or any third party that alter or add to the content or scope of the agreed Services. However, if such instructions are followed, the activities concerned shall be paid in accordance with DEPT®'s usual rates and DEPT® shall notify the Client of this situation.
- 4.5 DEPT® is entitled to have the Agreement carried out by third parties wholly or in part, or to engage third parties for the performance of the Agreement.
- 4.6 Services are deemed to have been accepted if the Client has not substantiated in writing and in detail, within five (5) working days after delivery of the Services concerned, the reason(s) why the Services have not been accepted. If the Services are not accepted and the Client can sufficiently demonstrate that the Services provided do not fulfil the Agreement, DEPT® shall replace or adapt the Services within a reasonable deadline. If the Client again does not accept the Services, the Parties shall perform the acceptance procedure again. In that event, the Client shall substantiate the reason(s) why the Services provided are necessary to fulfil the Agreement, in order for the costs of such repair work by DEPT® to be borne by DEPT®. In the absence of such substantiation, the costs of such repair work shall be borne by the Client.

5 PRICES AND TERMS OF PAYMENT

- 5.1 All prices are exclusive of turnover tax (VAT) and other government levies. The prices are based on performance during normal working hours.
- 5.2 Works not included in the quotation by DEPT® are not covered by the Agreement and may lead to an overall price increase.
- 5.3 Unless explicitly agreed otherwise in writing, price indications, estimates, budgets and/or cost estimates issued by DEPT® are merely for information purposes, and no rights or expectations may be derived from them. Only if the Parties have agreed so, DEPT® is obligated to inform the Client when a cost estimate or estimate will be exceeded.
- 5.4 All prices indicated in writing or electronically by DEPT® are subject to programming and typing errors or spelling mistakes. DEPT® is not bound by such errors and/or spelling mistakes.
- 5.5 Parties agree upon the date or dates on which DEPT® charges the fee for Services to the Client in the Agreement. The Client pays the invoices in accordance with the terms of payment stated on the invoice. In the absence of a specific payment term in the Agreement, the Client pays within fourteen (14) calendar days after the invoice date. All payments will be made without any deduction, suspension or set off.
- 5.6 Payments made by the Client shall first be used to pay all due interest and costs, and then the payable invoices which have been outstanding the longest, even when the Client states that the payment relates to a later invoice.
- 5.7 If the Client does not pay the amounts due on time, the Client is in default and automatically owes the statutory commercial interest (*wettelijke handelsrente*) on – and on top of – the outstanding amount, without any demand or notice of default being required. If after a reminder by DEPT® the Client still fails to fulfil its payment obligations, DEPT® may refer the debt for collection to a third party (e.g. a bailiff (*deurwaarder*)) in which case the Client is obligated to pay, all judicial and extrajudicial costs,

including costs of external experts in addition to the total outstanding amount.

- 5.8 DEPT® is entitled to retain Services that are still in its possession (*retentierecht*) if the Client does not comply with its payment obligations, regardless of whether the arrears are related to the Services that are being retained by DEPT®.
- 5.9 During the term of an Agreement, DEPT® is authorised to increase and/or index the prices for its Services annually with effect from 1 January, in conformity with the price index figure for that preceding calendar year as published by the Dutch Central Bureau for Statistics (*Centraal Bureau voor de Statistiek*) (consumer price index for 'all households'), plus a maximum of twenty-five percent (25%). DEPT® is entitled to implement the cost increase at a later date if it finds this desirable from an administrative point of view.
- 5.10 Any comments or complaints regarding invoices, bills and fee statements must be made in writing by the Client to DEPT® within fourteen (14) calendar days after receipt of such invoice, bill or fee statement, in the absence of which the invoice, bill or fee statement is deemed to have been accepted by the Client. Any filed comments or complaints do not suspend the payment obligations of the Client.
- 5.11 DEPT® is entitled to send the Client interim invoices and/or to invoice on the basis of advance payments, to offset or to require any form of security by the Client.
- 5.12 The Client agrees to electronic invoicing by DEPT®.
- 5.13 In the event that the financial position of the Client changes during the performance of the Agreement, DEPT® is entitled to quit any further execution of the Agreement wholly or partially or to change the terms of payment.

6. CHANGES TO THE ASSIGNMENT AND/OR EXTRA WORK

- 6.1 The Client accepts that the time schedule of the Agreement may be affected when the scope of the Agreement is expanded and/or altered while the Agreement is being performed by DEPT®. If such alteration affects the agreed upon remuneration, DEPT® reports this as quickly as possible to the Client.
- 6.2 When any supplemental requests or wishes of the Client result in an alteration of the Agreement following which DEPT® must carry out additional works (*meerwerk*), such additional works will be charged to the Client based on actual costs (*nacalculatie*) at the usual rates that apply at that time, unless explicitly agreed otherwise in writing.

7. OBLIGATIONS OF THE CLIENT

- 7.1 The Client ensures that all data and/or information that DEPT® has indicated to be necessary, or which the Client reasonably ought to understand to be necessary for the performance of the Agreement by DEPT®, including information about legislation or regulations to be complied with by DEPT® that applies specifically to the Client's field of work, are timely disclosed to DEPT® by the Client and the Client fully cooperates with DEPT® insofar as the latter requires. Quotations and offers issued by DEPT® as well as the Agreement concluded afterwards are based on the information disclosed by the Client. DEPT® shall not be liable for any loss and/or damages which arise due to it when work is based on inaccurate and/or incomplete details and information provided by the Client.
- 7.2 If data needed for the performance of the Agreement is not timely disclosed to DEPT®, DEPT® shall be entitled to suspend its performance of the Agreement and/or to charge to the Client any additional costs arising from the delay at the usual rates that apply at that time.
- 7.3 If, within the framework of the Agreement, DEPT® discloses any user names and/or passwords to the Client, the Client is responsible for the correct use of these user names and/or passwords and is entirely liable for any misuse made of the user names or passwords, unless such misuse is the result of intent or gross negligence on the part of DEPT®.
- 7.4 If DEPT® discloses user names and/or passwords within the framework of the Agreement, the Client is prohibited from disclosing, publishing and/or sharing these user names and/or passwords to third parties without DEPT®'s explicit written consent.

8. TERMINATION, PREMATURE TERMINATION AND THE RELATED CONSEQUENCES

- 8.1 An Agreement is in effect as of the date stated in Section 3 for the term agreed upon in writing between the Parties and ends by operation of law on the date as agreed upon by the Parties or when the Services provided by DEPT® have been completed.
- 8.2 Unless explicitly agreed otherwise in writing, the Parties can terminate (in Dutch: *opzeggen*) the Agreement prematurely in writing subject to a notice period of three (3) months. If the Client terminates (in Dutch: *opzeggen*) the Agreement prematurely, DEPT® is entitled to charge cancellation costs (including, but not limited to, costs already incurred in connection with the scheduling of personnel by DEPT® who can no longer be deployed elsewhere because of the change and/or cancellation of the Assignment).
- 8.3 DEPT® is entitled to terminate (in Dutch: *ontbinden*) the Agreement wholly or in part with immediate effect, without judicial intervention and without being obligated to pay any loss and/or damages or any other form of compensation to the client, in the event (i) the Client is declared

bankrupt or is granted a suspension of payments; as well as (ii) the Client's business is closed down or liquidated other than for the purposes of reconstruction or merger of companies, or (iii) if the decisive control of the Client's business changes (*change of control*).

- 8.4 The Agreement may only be terminated (in Dutch: *ontbinden*) on the basis of an attributable breach of the Agreement (*toerekenbare tekortkoming*) after a written notice of default has been sent by the Client to DEPT® that is as detailed as possible, with a reasonable term being set for fulfilment or remedy of the failure by DEPT®, unless these Conditions or the law provide otherwise.
- 8.5 If the Agreement is terminated (in Dutch: *ontbonden*), anything DEPT® has already delivered to and/or carried out for the Client under the Agreement as well as the related payment obligations of the Client shall not be (come) undone and/or undue, unless the Client proves that DEPT® is in default with regard to the material part of those Services. Amounts which DEPT® has invoiced before the dissolution of the Agreement, relating to Services already provided or performed under the Agreement, shall remain due and payable at the moment of dissolution.
- 8.6 In the event of dissolution of the Agreement, all rights granted to the Client automatically lapse, except for those IP-Rights that have been transferred to the Client or for which it has been agreed in writing at the time of dissolution of the Agreement that they will continue. In the event of dissolution of the Agreement, Client shall no longer be entitled to make use of the Services and/or all other granted rights.
- 8.7 Sections that, by their nature, are intended to continue to apply after the end of the Agreement shall remain fully effective after the Agreement is terminated, including, but not limited to, the sections relating to confidentiality, applicable law and competent courts.

9. IP-RIGHTS

- 9.1 Unless explicitly determined otherwise in the Agreement, all IP-rights to all the Services provided within the framework of the Agreement, as well as all other materials or information which DEPT® has made available shall be vested exclusively in DEPT® and/or its licensors.
- 9.2 Any IP Rights arising in whole or in part on the part of the Client in the context of the Services provided under the Agreement shall be transferred by DEPT® to the Client, under the condition precedent as set out in the Agreement, including - but not limited to - full payment by the Client of the agreed fees to DEPT® for the Services to be provided. To the extent that any further legal acts are required for this transfer, both parties shall cooperate with it. Nothing in these Conditions implies a transfer of IP Rights by DEPT® to Client.
- 9.4 DEPT® explicitly does not relinquish its personal rights referred to in Section 25 of the Dutch Copyright Act (*Auteurswet*).
- 9.5 DEPT® is permitted to use the Services and the materials used for the implementation of the Agreement, such as designs, drawings, films, software, files whether electronic or otherwise, reports, formats and interviews, for purposes of its own promotion and/or publicity, unless otherwise stipulated in the Agreement.
- 9.6 DEPT® reserves the right to introduce technical protective measures into the Services. The Client is not permitted to circumvent these technical protective measures or to offer means to do so.

10. PRIVACY

- 10.1 If within the framework of performing the Services, DEPT® has to process Personal Data of customers of the Client, DEPT® shall be deemed to be the 'processor' (*verwerker*) within the meaning of Section 4 paragraph 8 of the GDPR and the Client shall be deemed to be the 'controller' (*verwerkersverantwoordelijke*).
- 10.2 The Client guarantees to DEPT® that Personal Data is not unlawful and that they do not infringe the rights of third parties. The Client indemnifies DEPT® against all (legal) claims and demands and the resulting loss and/or damages of third parties, including - but not limited to - supervisory authorities and data subjects, on any basis whatsoever, in connection with the processing of this data within the framework of the Agreement.
- 10.3 Pursuant to the legislation on the processing of Personal Data (such as the GDPR), the Client has obligations to third parties, such as the requirement to have a legitimate basis for the processing, the obligation to disclose information, and to allow data subjects to inspect, correct and remove their Personal Data. The responsibility to comply with these obligations lies fully and solely with the Client. To the extent technically possible, DEPT® shall cooperate with the obligations to be complied with by the Client, including transmission requests from third parties within the framework of the Client's obligations. The costs involved with such cooperation of DEPT® are fully borne by the Client.
- 10.4 The Client grants DEPT® a general authorisation to appoint sub-processors. DEPT® notifies the Client in advance of the appointment of sub-processors, in which case the Client has the right to object, giving reasons, within four (4) weeks. After expiry of the four (4) week-term and without having raised an objection, the Client is deemed to have consented to the engagement of those subprocessors.
- 10.5 DEPT® shall ensure that the subprocessors are bound in writing to the same obligations as DEPT® under this Section 10 and supervises compliance therewith. DEPT® shall be liable to the Client for any

compliance - or a failure thereof - with the obligations under this Section 10 by a subprocessor.

- 10.6 DEPT® shall only transfer the Personal Data to a country outside the European Union if it complies with all applicable legal requirements.
- 10.7 DEPT® shall ensure that all Personal Data are treated in strict confidence. DEPT® shall also ensure that all its employees authorised to process the Personal Data are bound by a duty of confidentiality.
- 10.8 DEPT® shall take all appropriate technical and organisational measures, or have them taken by third parties, and maintains and, to the extent necessary, adjusts them in order to protect the Personal Data that DEPT® processes on the instructions of the Client in order to prevent unlawful processing as referred to in the GDPR. DEPT® shall not process any Personal Data obtained from the Client for its own purposes.
- 10.9 DEPT® shall discuss the appropriate technical and organisational measures to be taken for the protection of Personal Data from loss or from any other form of unlawful processing with the Client.
- 10.10 The Client acknowledges that it has full knowledge of the technical and organisational measures to be carried out by DEPT® and hereby declares that these measures guarantee a suitable level of protection, taking into consideration the state of the art and the costs of implementation and having regard for the risks involved in the processing and the nature of the data to be protected.
- 10.11 If a security incident occurs involving (i) destruction; (ii) loss; (iii) falsification; (iv) unauthorised distribution of and/or access to; or (v) any other form of unlawful processing of Personal Data, despite the fact that DEPT® has implemented the agreed appropriate measures, the Client cannot hold DEPT® liable for any loss or damages resulting from such incident.
- 10.12 If the Client explicitly requests measures which, in the opinion of DEPT®, cannot be regarded as suitable technical and organisational measures, the implementation thereof shall be entirely for the account and risk of the Client, and DEPT® does not accept any liability for any loss and/or damages suffered by the Client or third parties.
- 10.15 Unless storage is mandatory under applicable law, and at the option of DEPT®, DEPT® either destroys or returns the Personal Data to the Client at the time of termination of the Agreement.

11 CONFIDENTIALITY

- 11.1 The Parties shall treat all information they obtain from one another, in any form whatsoever - written, verbal, electronic or physical - including, but not limited to software, (source) codes, programs, applications, customer details, know-how, technical specifications, documentation ("**Confidential Information**") as strictly confidential, and shall keep it secret during the term of the Agreement and for five (5) years after the end of the Agreement, unless it follows from the nature of the information that the limitation in time as mentioned in the previous sentence does not apply.
- 11.2 The Parties shall only use the Confidential Information for the purposes for which it was disclosed and in doing so shall observe at least the same duty of care and safeguards that apply to their own internal confidential information. The Parties shall only disclose the Confidential Information to employees, and employees of affiliated businesses and subcontractors, insofar as is necessary within the framework of the (implementation of the) Agreement. Comparable provisions in relation to confidentiality must be imposed on these employees and subcontractors.
- 11.3 The obligations to maintain secrecy with regard to the Confidential Information do not apply insofar as the receiving Party can demonstrate that the information concerned:
 - (i) was already known to it when it was received;
 - (ii) was already publicly known when it was received;
 - (iii) became publicly known after receipt and this is not attributable to the receiving Party;
 - (iv) was received in a lawful manner from third parties along with the right to communicate it publicly without any obligation to maintain secrecy;
 - (v) must be disclosed pursuant to legislation or regulations or pursuant to a court order, and the disclosing Party has informed the other Party of such an obligation to communicate it to the public;
 - (vi) was made public with the approval of the Party disclosing it.
- 11.4 For the duration of the Agreement and 1 (one) year after it terminates, except with the prior consent of the other Party, neither Party shall employ employees of the other Party who are or were involved in the implementation of the Agreement, nor have them work for them in some other manner, directly or indirectly.

12 LIABILITY

- 12.1 Except in the event of intent or gross negligence by DEPT®, any liability of DEPT® on account of (i) an attributable failure to perform the Agreement; (ii) in tort; or (iii) for any other reason, expressly including any failure in the performance of a warranty obligation agreed with Client (hereinafter: a "**Liability Event**"), shall be limited to compensation of the direct damage suffered by Client up to a maximum of the amount invoiced by DEPT® to Client 12 months up to the date of the Liability Event in the context of the Agreement (excluding third-party fees, including media and licence fees) and paid by Client in a timely manner. Except for cases as referred to in Section 12.2 of these Terms and Conditions, DEPT®'s total

liability for damage, on any account whatsoever, shall never exceed €500,000 (five hundred thousand euros). A series of interrelated failures shall be regarded as one Liability Event.

- 12.2 The liability of DEPT® for any loss and/or damages by death, physical injury or material damage to property shall, in total, never exceed €1,000,000 (one million euros).
- 12.3 DEPT® shall not be liable for indirect loss or damages, consequential damage, lost profit, missed savings, reduced goodwill, damage due to operational delays, damage as a consequence of claims by purchasers of the Client, damage relating to the use of third-party goods, materials or software prescribed to DEPT® by the Client and damage relating to the engagement of third parties prescribed by the Client to DEPT®. Nor is DEPT® liable due to deformation, destruction or loss of data or documents.
- 12.4 DEPT® shall not be liable for any loss and/or damages which is covered by any insurance taken out by the Client.
- 12.5 The exclusions and restrictions of DEPT®'s liability, as described in the above paragraphs of this Section 12, do not in any way prejudice the exclusions or restrictions of DEPT® on account of this general part of these Conditions and the Schedule.
- 12.6 Unless fulfilment by DEPT® is permanently impossible, liability on the part of DEPT® due to attributable failure in the fulfilment of an Agreement shall only arise after the Client has immediately placed DEPT® in default in writing, whereby a reasonable deadline for rectification of such failure has been set and DEPT® continues, even after such deadline, to fail culpably in the fulfilment of its obligations. The notice of default must include as complete and detailed a description of the failure as possible, so that DEPT® has the opportunity to respond adequately.
- 12.7 Any right to compensation is always subject to the Client reporting the damage as quickly as possible, but in any event within thirty (30) calendar days after it has arisen. If DEPT® is not informed by the aforementioned deadline, DEPT® shall be released from any liability in connection with said damage. Any claim for compensation against DEPT® shall cease to exist simply by the passage of twelve (12) months after the claim arose.
- 12.8 The Client shall bear the full risk and responsibility for its use of the Services. DEPT® does not accept any liability for use of the Services by the Client. The Client indemnifies DEPT® against all third-party claims in connection with the performance of the Agreement and/or resulting from the use of the Services by the Client.
- 12.9 The Client shall indemnify DEPT® against all third-party claims due to product liability as a consequence of a defect in a product or system supplied by the Client to third parties and which consisted partly of equipment, software or other materials supplied by DEPT®, unless and insofar as the Client proves that the damage was caused by said equipment, software or other materials.
- 12.10 The provisions in this Section 12, as well as all other liability restrictions and exclusions referred to in these Conditions, also apply for the benefit of all legal entities/persons which DEPT® serves during the performance of the Agreement.

13 NON-SOLICITATION

- 13.1 During the term of the Agreement, upon termination (for any reason) or termination/expiry of the Agreement, the Client will not, either directly or indirectly (i) solicit, induce or attempt to induce, any employee or independent contractor of DEPT® to terminate his or her employment or other engagement with DEPT®, or (ii) hire or recruit, or attempt to hire or recruit, or engage or attempt to engage as independent contractor, any person who was employed or otherwise engaged by DEPT® at any time during the term of the Agreement, provided that this clause 13.1 shall not apply to the recruitment or hiring or other engagement of any individual whose employment or other engagement with DEPT® ended at least six (6) months before the recruitment, hiring, or other engagement.
- 13.2 In the event that the Client breaches any of its obligations under this clause 13.1 it shall immediately, without any further action or formality being required, become liable to DEPT® for an immediately due and payable penalty of € 75,000 (seventy-five thousand euros).

14 FORCE MAJEURE

- 13.1 In the event of force majeure, no attributable failure applies in the performance of the Agreement by the Parties.
- 13.2 Force majeure includes, among other things, disruptions in the supply of electricity, strikes or work interruptions (*werkonderbrekingen*), riots, government measures, fire, natural disasters, floods, failure on the part of DEPT®'s suppliers, failure on the part of third parties enlisted by the Parties, disruptions in the Internet connection, malfunctions in equipment and/or (telecommunication) networks and other unforeseen circumstances.
- 13.3 If the force majeure lasts at least thirty (30) days, the Parties are entitled to terminate (in Dutch: *ontbinden*) the Agreement without being obligated to reimburse any loss or damages, undo any work that has been carried out by DEPT® or to pay any damages or any other form of compensation for such dissolution.
- 13.4 If DEPT® can still perform in part at the time of the force majeure, or if it has performed, it is authorised to perform this Service and to invoice it separately, as if it were a separate Agreement.

14 TRANSFER OF RIGHTS AND OBLIGATIONS

DEPT® can license, sublicense or transfer the rights and obligations arising from the Agreement to third parties. The Client is not authorised in this respect.

15 SETTLEMENT AND MEDIATION

If a dispute between the Parties cannot be settled amicably, the dispute shall, before it is submitted to the court, be submitted to competent representatives of the Parties in order to assess the settlement possibilities.

16 APPLICABLE LAW AND COMPETENT COURT

- 16.1 These Conditions, the Annexes and the Agreement are exclusively subject to Dutch law.
- 16.2 The applicability of the Vienna Sales Convention (CISG) is expressly excluded.
- 16.3 Disputes that may arise between DEPT® and the Client within the framework of, or in connection with, these Conditions, the Annexes and/or the Agreement shall exclusively be submitted to the competent court in the district of Amsterdam or Rotterdam.

I. CONSULTANCY**1 APPLICABILITY**

The provisions referred to in this Annex I apply, in addition to the Conditions, to Services purchased by the Client from DEPT® in the field of consultancy and/or training, for the hiring in on an hourly basis of professionals with a duty of best endeavours, hereinafter referred to as "**Consultancy**".

2 CONSULTANCY

- 2.1 All Consultancy Services provided by DEPT® shall be performed subject to the provisions in the Agreement.
- 2.2 In performing the Services, DEPT® shall exercise the greatest possible care with regard to the Client's interests. In particular, DEPT® shall ensure the secrecy of all the data and information made available by the Client to DEPT® within the framework of the Agreement.
- 2.3 If the Agreement has been concluded for Consultancy Services provided by a particular person, DEPT® shall always be entitled to replace that person with one or more other equally qualified persons.
- 2.4 The Client shall provide an adequate and safe work area, insofar as the Consultancy Services are performed at the Client. The Client shall ensure that employees of DEPT® are informed about any local health and safety regulations.

- 2.5 The Client shall ensure that its employees and other independent contracting parties fully cooperate with (employees of) DEPT® in the provision of Consultancy Services and shall adequately provide (employees of) DEPT® with all the information that is reasonably required in order to properly perform the Consultancy Services.

3 RATES AND WORKING HOURS

- 3.1 The Client shall reimburse DEPT® for travel and other expenses incurred in providing such Services.
- 3.2 The Client can also order training sessions from DEPT® (planned lessons on location at DEPT®, on-site or virtually) at full rates and on days recorded in the Agreement.

4 LIABILITY

Supplementary to Section 12 of the Conditions, DEPT® cannot, in any way, be held liable for the Consultancy Services provided and the possible consequences thereof, except in the event of negligence or deliberate recklessness on the part of DEPT®.

II. DEVELOPMENT OF WEBSITES AND APPS**1 APPLICABILITY**

In addition to the general provisions of the Conditions, the provisions set out in this Annex II apply if DEPT® develops, on the Client's instructions, a website (hereinafter referred to as the "**Website**") or application (hereinafter referred to as "**App**") and/or executes a related Service (hereinafter referred to as the "**Service**"). The other capitalised terms used in this Annex are defined in the Conditions.

2 DEVELOPMENT OF WEBSITES AND/OR APPS

- 2.1 DEPT® shall make an effort to develop the Website and/or App or perform the Service pursuant to the specifications included in the Agreement.
- 2.2 DEPT® may use existing or future generic software on which it has or shall have IP Rights ("**Background IP**") to develop the Website and/or App. Background IP is distinguished from the IP rights to the tailor-made software developed for the Client in the execution of the order ("**Foreground IP**"), without which the Website and/or App could not exist. Background IP can never be Foreground IP (too).
- 2.3 DEPT® shall be entitled to demand a written agreement for a design and/or draft of the Website and/or App and/or Service before starting the development, and to suspend the development and to charge the Client any costs resulting from the delay in accordance with the Client's usual rates until this agreement has been received.

3 CLIENT'S RIGHTS

- 3.1 Unless otherwise provided in the Agreement, subject to payment of all invoices relating to Foreground IP, DEPT® shall transfer all Foreground IP to Client, who hereby accepts such transfer. If required, DEPT® draws up a list of the Foreground IP that shall be transferred after payment of the last invoice. DEPT® grants an exclusive, non-sublicensable, worldwide licence to use (but not modify) the Foreground IP for the period from delivery of the Website and/or App to the time of receipt of payment of the last invoice.
- 3.2 The IP Rights to the Background IP are and remain at all times vested in DEPT®. To the extent that the Background IP is necessary for the use of the Website and/or App, DEPT® grants the Client a non-exclusive, sublicensable, worldwide, free of charge and non-time-limited licence for that part of the Background IP.
- 3.3 Unless agreed otherwise, the source code of the Website and/or App and/or Service and the technical documentation used or produced upon developing the Website shall be made available to the Client.

- 3.4 The Client itself is at all times responsible for the use of the Website and/or App and/or Service. The Client may not use the Website and/or App and/or Service for actions and/or conduct contrary to the Agreement, applicable laws or regulations, public order or morals, or use it in any other unlawful manner. The Client indemnifies DEPT® against all third-party claims and other loss and/or damages relating to any violation of the above.
- 3.5 If the IP-Rights to (part of) the Website and/or the App and/or Service belong to licensors of DEPT®, the Client may be bound by the licence provisions and the terms and conditions of these third parties, including but not limited to content management software or restrictions relating to the issuing of licences, which may influence Sections 3.1 and 3.2.

4 DELIVERY, INSTALLATION AND ACCEPTANCE

- 4.1 DEPT® shall make an effort to deliver the Website and/or App and/or Service in the manner determined in the Agreement.
- 4.2 By way of an acceptance test, it has been agreed that the Website and/or App and/or Service shall be deemed to be accepted on the first day after the test period or, if DEPT® receives a test report before the end of the test period as referred to in Section 4.5, at the moment at which the errors referred to therein have been rectified, without prejudice to the presence of errors which, according to Section 4.8, do not prevent acceptance.
- 4.3 Contrary to the above, the Website and/or App and/or Service shall be deemed to be fully accepted from the time that the Client puts it online or uses it in another way for productive or operational purposes before it has been accepted.
- 4.4 If, during the performance of the agreed acceptance test, it transpires that the Website and/or App and/or Service contains errors that obstruct the progress of the acceptance test, the Client shall provide detailed written information of this to DEPT®, in which case the test period will be interrupted until the Website and/or App and/or Service has been modified in such a way that the obstruction has been removed.
- 4.5 If, during the performance of the agreed acceptance test, it transpires that the Website and/or App and/or Service contains errors, the Client shall inform DEPT® of the errors by means of a detailed written test report no later than on the last day of the test period. DEPT® shall use its best endeavours to remedy the errors within a reasonable period, whereby DEPT® shall be entitled to introduce temporary solutions or software bypasses or problem-evading restrictions into the Website and/or App and/or Service.

- 4.6 The Client may not withhold acceptance of the Website and/or App and/or Service for (i) reasons other than those that are connected with the specifications explicitly agreed between the Parties and/or (ii) due to the existence of minor errors, i.e. errors which would not reasonably preclude putting the Website and/or App and/or Service into operation, notwithstanding DEPT®'s obligation to remedy these minor errors on the basis of the guarantee arrangement set out in Section 5 of this Annex, if applicable.
- 4.7 DEPT® shall not be obligated to rectify any errors as referred to in Section 4.5 and Section 4.6 if these have come about as a consequence of:
 - (i) a modification to the Website and/or App and/or Service, of any nature whatsoever, which has not been made by DEPT®;
 - (ii) use of the Website and/or App and/or Service in a manner which is not allowed on the basis of the Agreement;
 - (iii) incorrect use of the Website and/or App and/or Service, by the Client or another party; or
 - (iv) input errors or errors connected with the data used by the Client.
- 4.8 If the Website and/or App and/or Service is delivered and tested in phases and/or parts, non-acceptance of a particular phase and/or part shall not affect any acceptance made of a previous phase and/or different part.

III. ADVERTISING CREATION AND ADVERTISING SALES

1 APPLICABILITY

The provisions referred to in this Annex III apply, in addition to the Conditions, to Services to be purchased by the Client of DEPT® in the field of the creation of advertisement, online advertisement sales and campaign management, hereinafter referred to as "Advertising Services".

2 PROGNOSSES AND ADVICE

- 2.1 Insofar as DEPT® has given any advance prognoses regarding possible results of advertising campaigns given, these are merely estimates and are not binding upon DEPT®.
- 2.2 Services not related to Advertising Sales are subject to Annex I (Consultancy).

3 CLIENT'S OBLIGATIONS

- 3.1 The Client shall provide all cooperation reasonably requested by DEPT® and shall promptly supply DEPT® with all information that is reasonably required in order to perform the Agreement, including information about laws and regulations specific to the Client's sector which DEPT® must comply with, including - but not limited to - information about advertising bans and information obligations.
- 3.2 If the Client supplies - via third parties or otherwise - advertising material to DEPT®, the Client guarantees that such advertising material has always been prepared in accordance with the applicable laws and regulations, including but not limited to the Dutch Advertising Code (*Nederlandse Reclame Code*) and the Client also guarantees that this advertising material does not infringe any rights (including intellectual property rights) of third parties. If the above does not apply, the Client indemnifies DEPT® against all third-party claims and other damages which results from such claims.
- 3.3 If the Client supplies advertising material to DEPT®, via a third party or otherwise, the Client guarantees that such advertising material meets the technical specifications communicated by DEPT® to the Client in advance, that it is free of technical defects and that it is sufficiently suitable for placing measuring systems. If the above does not apply, the Client indemnifies DEPT® against all third-party claims and other damages resulting from such claims.
- 3.4 All orders by the Client relating to Advertising Services must be paid, without withdrawal or cancellation being possible. If no timely payment has taken place, DEPT® shall not carry out the Advertising Services. The Client cannot be reimbursed for the media budget paid by the Client for Advertising Services in relation to advertisements placed, and neither can the Client be credited for these.
- 3.5 DEPT® shall charge the costs for Advertising Services to the Client in advance, if and insofar as this relates to media buying.
- 3.6 The Client must perform all obligations with regard to third parties insofar as these affect the performance of the Agreement by DEPT®.

4 DEPT®'S OBLIGATIONS

- 4.1 At the Client's request DEPT® shall specify, within a reasonable period after the budget made available by the Client for Advertising Services has been spent, which part of the budget was spent on the purchase of media and which part was spent on campaign management costs.
- 4.2 If DEPT® independently prepares advertising material on the Client's instructions, DEPT® shall guarantee that the advertising material corresponds to the applicable law and regulations, and that the advertising material does not infringe any include (including intellectual property rights) of third parties, whereby any liability by DEPT® shall lapse in the event that the Client has not provided information, or has provided incorrect or incomplete information which is contrary to the provisions of Section 3.1.

5 GUARANTEES

- 5.1 After the Client has performed the acceptance test and has accepted the Website and/or App and/or Service, DEPT® shall charge costs for the performance of (rectification) work unless agreed otherwise in writing.
- 5.2 Unless agreed otherwise in writing, DEPT® does not guarantee that the Website and/or App and/or Service functions, or functions properly, in combination with all software (including web browsers, and/or equipment) nor does DEPT® guarantee that the Website and/or App and/or Service functions and/or is accessible without malfunctions, interruptions, or other errors.
- 5.3 If DEPT® delivers a Website and/or App and/or Service to the Client which DEPT® has obtained from its suppliers, DEPT® shall not be obligated vis-à-vis the Client to provide any additional guarantee than that which DEPT® can claim from its supplier.
- 5.4 Parties fully cooperate with (employees of) DEPT® in the provision of Consultancy Services and shall adequately provide (employees of) DEPT® with all the information that is reasonably required in order to properly perform the Consultancy Services.

5 ACCESS TO THIRD-PARTY ACCOUNTS

- 5.2 DEPT® shall comply with reasonable instructions and guidelines provided by the Client with regard to the use of the Client's accounts with third-parties/service providers. DEPT® shall comply with reasonable instructions and guidelines provided by the Client with regard to the use of the Client's accounts with third-parties/service providers.
- 5.3 Insofar as the Client uses accounts of DEPT® with third-parties/service providers the Client shall always strictly comply with the instructions issued by DEPT® in that regard, including but not limited to payment periods. The Client is liable for and indemnifies DEPT® against all third-party claims and other damages resulting from such claims arising from any failure by the Client to comply with such instructions in a timely manner.

6 COOKIES AND DATA ANALYSIS

- 6.1 Insofar as the activities of the Client or the party with which agreements are concluded for the Client within the framework of Advertising Services, imply the placement and reading of information on the peripheral equipment of end users (hereinafter referred to as Cookies), the Client acknowledges that it is fully responsible for compliance with all applicable legislation when placing and reading Cookies or any of the data analysis and acknowledges that, within this framework, DEPT® does not bear any responsibility.
- 6.2 The Client guarantees that the Client shall always act in complete accordance with all laws and regulations with regard to Cookies, including but not limited to the Dutch Telecommunications Act (*Telecommunicatiewet*). In particular, the Client guarantees that, in accordance with the applicable laws and regulations, it shall (i) not place or read any Cookies (or have them placed or read) before the Client has received satisfactory permission from the end user in this regard; and (ii) provide end users with satisfactory information in the form of a cookie policy, before the Client places and reads Cookies. At the request of DEPT® the Client must always be able to demonstrate this satisfactorily in writing.
- 6.3 The Client is liable for all loss and/or damages (to be) suffered by DEPT® as a consequence of the non-fulfilment of this Section 6 and/or violation by the Client of applicable legislation and regulations, and indemnifies DEPT® completely against all claims by third parties, including but not limited to penalties imposed by supervisory authorities, which are the consequence and/or of are connected to a violation by the Client of this Section 6.

7 MISCELLANEOUS

- 7.1 Surcommissions (Surcos), amounts still to be received, other discounts and/or offsetting shall accrue to DEPT®.
- 7.2 DEPT® shall not be, in any way, liable for any loss and/or damages as a consequence of advertisements placed on the Client's instructions.
- 7.3 In the event that the Advertising Services concern the creation of advertisements, Client informs DEPT® in writing, no later than five (5) working days after the delivery of the advertisement, that the advertisement is in accordance with the assignment. If such a message is not received within the term, the advertisement is deemed to have been delivered in accordance with the assignment. If Client informs DEPT® in writing within the deadline that the advertisement does not (entirely) comply with the order, Client refrains from publishing the advertisement until it has been adjusted in accordance with the order. Unless DEPT® has demonstrably failed to comply with Client's instructions, DEPT® shall charge Client reasonable costs for the work involved in adapting the advertisement.

- 7.4. Client fully indemnifies DEPT® against all costs relating to, damages, fines and liabilities of third parties, including reasonable attorneys' fees, in connection with the content or publication of the Advertisement.

IV. HOSTING

1 APPLICABILITY

In addition to the Conditions, the provisions set out in this Annex IV apply if, on the Client's instructions, DEPT® saves and passes on information via and/or provides access to a communications network (via a public cloud provider or otherwise), hereinafter referred to as "**Hosting**".

2 AVAILABILITY OF HOSTING SERVICES

- 2.1 The Client is responsible for the availability of the equipment and software, connections and other preconditions of the Client for making access to the system possible.
- 2.2 Arrangements regarding Service levels shall be set out in a Service Level Agreement (SLA).
- 2.3 DEPT® shall endeavour to enable the Hosting Services to be used with as little disruption as possible.
- 2.4 DEPT® shall not be liable for any non-availability or reduced availability of the Hosting Services as a consequence of a power cut or power disruption, disruptions in telecommunications or the Internet, defects to the Client's equipment or software and/or all other causes beyond DEPT®'s control.
- 2.5 DEPT® shall have the right to temporarily close down the Hosting Services or to limit the use of them for maintenance work or for adjustments to the system, and it shall inform the Client of this in advance. In that case the Client shall not be entitled to any form of compensation.
- 2.6 If the Client does not wish to continue the collaboration with DEPT® after the end of the term of the Agreement, DEPT® shall cooperate with a transfer of the Hosting activities to third parties for the applicable DEPT® rates.

3 CLIENT'S OBLIGATIONS

- 3.1 The Client is expressly prohibited from distributing information or offering facilities or functionalities through or via websites hosted by DEPT® if and insofar as this information is contrary to:
 - (i) applicable laws and regulations, including regulations of self-regulating bodies;
 - (ii) the Agreement; or
 - (iii) reasonable directions and instructions issued by DEPT®.

- 3.2 The Client shall at all times adopt the attitude and conduct itself in the manner that may be expected of a careful user with regard to the information it communicates to the public and the use of the Internet. In this regard it will, among other things, comply with all statutory regulations and observe 'netiquette' and will, among other things, refrain from behaviour which is contrary to morals or public order, spamming, infringing IP-Rights of third parties, communicating to the public or distributing pornography, including child pornography, sexually intimidating or harassing third parties in any other way, violating the privacy of third parties or compromising the honour or reputation of third parties, hacking, carrying out DDoS- or other kinds of attacks and spreading viruses, worms or other programs which could damage individual systems or disrupt the operation of the Internet.
- 3.3 The Client is obligated to use the Hosting Services in such a way that does not hamper the correct operation of the communication network or the use of the Hosting Services by other clients.
- 3.4 In the event that the Client does not observe the provisions in Sections 3.1, 3.2, 3.3 and/or if DEPT® receives notification from third parties that this is the case, DEPT® shall be entitled, without any additional notification, to suspend or discontinue the Hosting Services, block connections or remove content. In instances in which this is justified in view of the seriousness of the violation, DEPT® shall be entitled to terminate the Agreement with immediate effect. In the event of such suspension, cessation, blockage, removal and/or termination, the Client shall not be entitled to receive any loss or damages or any other form of compensation from DEPT®.
- 3.5 The Client indemnifies DEPT® from all third-party claims, including but not limited to claims due to information and/or data published by or via the Client's websites and claims by a supplier or suppliers of DEPT® resulting from the non-fulfilment by the Client of one of its obligations from the Agreement, more particularly from this Section 3.