

**1 PRICING & INVOICING**

If Charges are partially or wholly time-and-materials based, then the Standard Rates shall apply, and Supplier shall invoice those performances of its Staff that are ratified in writing by KBC using weekly timesheets.

In consideration for correctly supplied Deliverables, Supplier shall invoice KBC within twelve months from (but no sooner than): (i) the moment the Deliverables could be invoiced according to the invoicing plan set forth in the Cover Document; or, in absence thereof, (ii) their Acceptance Date. After this period, Deliverables can no longer be invoiced.

In addition to the information required by law, each invoice shall contain: (i) the date or period (start and end date) of delivery; (ii) the relevant KBC Affiliate name and its VAT number; (iii) the name and KBC-contract n° of the Agreement; and (iv) the purchase order n° and, when available, the name of the KBC contact person.

Supplier shall maintain complete and accurate records of, and supporting documents for, the amounts billable to and payments made by KBC in accordance with generally accepted accounting principles, applied on a consistent basis, for a minimum period of seven years. Supplier will provide KBC with such documentation and other information as KBC may reasonably require with respect to each invoice in order to verify its accuracy and compliance with the provisions of the Agreement.

**2 PAYMENT**

Payments will be effected within thirty days of receipt of a correct and undisputed invoice. KBC's records serve as proof of the date of receipt of the invoice, subject to Supplier's contrary evidence. If Supplier has an establishment in Belgium, then payment shall occur on a KBC Bank account. Payment after the due date shall entitle Supplier to a late-payment interest (equal to the 12-months-Euribor rate + 1%) on all undisputed amounts, calculated on and applicable as from twenty Business Days after KBC was notified by receipt of a registered letter; provided payment has not occurred by that date. Payment of an invoice does not constitute Acceptance of the Deliverables listed in the invoice.

Supplier can terminate or suspend the supply of Deliverables due to late payment only in case of persistent non-payment of undisputed amounts during a period of at least three months; provided KBC was repeatedly notified by registered letter and good-faith discussions were undertaken.

In no event shall KBC be responsible for any fees or charges not identified or calculated in the Agreement. In this regard, where a fee or charge is not identified in the Agreement for an obligation of Supplier or a right of KBC, the cost of such task or activity shall be deemed included in the agreed Standard Rates (for time-and-material Deliverables) or the explicitly agreed Charges (for fixed price Deliverables). Without prejudice to the generality of the foregoing, the following costs shall be deemed to be included in the Charges: (i) excise, sales, products and services, or similar taxes or levies (with the exception of VAT), or import or export duties payable in connection with the sale or delivery of the Deliverables; (ii) costs relating to studies and preparatory work required for the execution of the Agreement; (iii) compliance costs, such as costs relating to safety and prevention measures, or obligations of Supplier resulting from applicable laws or rules; (iv) costs of other aspects that are necessary or indispensable for the proper execution of the Agreement; (v) accommodation, subsistence and travel costs; and/or (vi) administration and telecommunication costs.

KBC may set off (even after any attachment against or Insolvency of Supplier) each matured obligation of Supplier to KBC or any KBC Affiliate against each obligation by KBC or a KBC Affiliate to Supplier (whether or not matured), even if the obligations are owed at different places and/or in different currencies, irrespective of whether these obligations arise out of different agreements or out of a tort.

**3 SUPPLIER OBLIGATIONS**

**3.1 SCOPE OF THE OBLIGATIONS**

The Deliverables are described in the Cover Document. They shall be provided by Supplier in accordance with the dates specified for such delivery, and with accurate and practical documentation. Deliverables that do not have specified dates for completion shall be provided as soon as possible.

Supplier shall, as part of the Deliverables, provide (to KBC or KBC's other contractors and suppliers) all reasonable assistance and information related to the Deliverables, whenever reasonably requested by KBC. Supplier accepts that the performance of its obligations will regularly require cooperation with Third Parties, such as external suppliers or consultants. Supplier shall use Commercially Reasonable Efforts to support such third parties' activities and cooperate with them.

**3.2 COMPLIANCE**

Supplier shall (and shall cause its subcontractors to), at a minimum, perform its obligations in accordance with: (i) the laws and rules generally applicable to a business and to a provider engaged in providing services or products similar to the Deliverables; and (ii) to the extent not included in (i), the laws and rules specifically applicable to KBC's business, as notified by KBC. The Deliverables shall comply with the Agreement, the Specifications, the service levels, Good Industry Practice, as well as all laws and rules specifically applicable to the Deliverables. Any changes in any of the aforementioned laws and rules that occur throughout the Term shall be monitored by Supplier and shall be implemented in the Deliverables, after consultation with KBC.

Supplier shall be liable for any penalties imposed by an authority on any KBC Recipient arising from Supplier's non-compliance with this clause 3.2, for which clause 5.1 shall not apply.

**3.3 ACCEPTANCE**

Acceptance of a Deliverable occurs at the earliest of the following events (the "Acceptance Date"): (i) KBC confirms in writing the successful termination of the Acceptance Tests; or (ii) three months after the date the Deliverable is taken into production use by KBC without any reservations.

If KBC has informed Supplier that a Deliverable is not Accepted, Supplier will be granted a remedy period of fifteen Business Days. In case of a second non-Acceptance, KBC shall have the option to: (i) allow the provision of a new Deliverable; (ii) procure and install the Deliverable itself or through a Third Party, at Supplier's cost; (iii) Accept the Deliverable at a discount; or (iv) terminate the Agreement for cause in accordance with clause 9.1.

**3.4 RELIEF OF OBLIGATIONS**

If Supplier fails (or threatens to fail) to execute its obligations in whole or in part, it shall: (i) immediately take all steps needed to rectify the failure; and (ii) provide KBC with a detailed explanation in writing of the cause and the corrective steps. Supplier's non-performance of its obligations will only be excused in case of: (i) a Relief Event, provided the conditions set forth in this clause 3.4 are fully complied with; or (ii) Force Majeure.

Supplier shall promptly notify KBC in writing ("Relief Notice") of any breach by KBC of its obligations, as soon as it becomes aware of it. If Supplier has not notified KBC within thirty calendar days from the breach, Supplier cannot invoke the breach to justify its failure to fulfill its obligations.

The Relief Notice shall identify: (i) the cause of the delay or interruption; (ii) which Deliverables or obligations are affected; (iii) the extent to which they are affected; and (iv) the proposed rectification steps to rectify the situation. Supplier shall then use Commercially Reasonable Efforts to perform its obligations (and/or mitigate the impact of KBC's failure) notwithstanding KBC's failure to perform its responsibilities.

**4 STAFF**

**4.1 AUTHORITY**

Staff members shall represent Supplier while providing the Deliverables, and shall remain under its sole authority and responsibility. At no time shall a KBC Recipient exercise any employer's authority over them, or be deemed their legal or actual employer. However, to the extent permitted by law, a KBC Recipient shall have the right to give the Staff members instructions with regard to working and rest times.

Supplier is responsible for the payment of all amounts due to the Staff members arising from the execution of the Agreement, such as the salaries/fees, taxes, social security, workers compensation and disability benefits. Supplier shall comply with all legally required procedures for registration of workers and work permits of its Staff (e.g. "Limosa").

## 4.2 SKILL AND COMPETENCE

Supplier shall ensure that all Staff members have the required experience and competence, and have the profile required by KBC to provide the Deliverables in a professional way. KBC reserves the right to request from Supplier that the profile of particular Staff members covers specific technical skills or qualifications and/or meets specific standards.

For Key Staff members and for Staff members involved in Deliverables charged on a time-and-material basis, KBC has the right to meet the proposed persons, and to refuse specific persons for any reasonable reason.

Supplier shall use all Commercially Reasonable Efforts to maintain continuity in respect of all Staff members. Supplier shall not remove or replace any Key Staff members unless: (i) a member is ill or leaves Supplier's employment; (ii) a member is dismissed for serious cause; (iii) KBC gives its prior written consent; or (iv) the replacement is otherwise required pursuant to the Agreement. Supplier shall replace within a reasonable time any Staff member for which KBC notifies Supplier that his or her performance is, in KBC's reasonable opinion, unsatisfactory, or prejudicial to the working relationship between the Parties.

For any replacement: (i) Supplier shall organize all necessary knowledge transfers; (ii) with respect to Deliverables charged on a time-and-material basis, Supplier shall bear the project familiarization costs for one month; and (iii) with respect to Deliverables charged on a fixed price basis, the total fixed price will remain unchanged.

Supplier shall use Commercially Reasonable Efforts to ensure that no role of any member of the Staff would be vacant. With respect to Key Staff, no role shall be vacant for a period longer than fourteen days.

## 5 RISK ALLOCATION

### 5.1 INDIRECT OR CONSEQUENTIAL DAMAGE

Neither Party shall be liable to the other for loss of anticipated savings, loss of profits, company growth standstill, loss of turnover, loss of goodwill, wasted management time, or departed employees.

### 5.2 EXCEPTIONS TO THE RESTRICTION ON LIABILITY

Nothing in the Agreement shall restrict any Party's liability for fraud, gross negligence, willful misconduct, death or bodily injuries.

### 5.3 INSURANCE

It is of the essence that Supplier takes out, and maintains throughout the Term, insurance for its liabilities to KBC with a reputable insurance company. Evidence thereof (copy of the cover sheet of the relevant insurance) shall be presented on KBC's request.

## 6 INTELLECTUAL PROPERTY

Supplier grants KBC a perpetual, worldwide, non-exclusive license on all intellectual property rights ("IPR") of Supplier's Background Material in any of the Deliverables. This license includes: (i) the right to use, reproduce and distribute such Background Material (electronically or physically), and make it available to the public; and (ii) modify it, except for Background Material that qualifies as commercial off-the-shelf software. KBC shall not have the right to use Supplier's Background Material that is embedded in other Deliverables on a standalone basis. Any other limitations shall be explicitly set forth in the Cover Document. Supplier shall cause its Staff not to enforce any moral rights against any KBC Recipient in a way that would prejudice the rights in this clause 6.

Supplier shall use Commercially Reasonable Efforts to procure that any Third Party Materials that are supplied to KBC as (part of) a Deliverable, shall have a license with rights identical to the previous paragraph. For those Third Party Materials where these rights cannot be procured, the Parties shall agree on deviations and list them in the Cover Document.

The IPR of the Specific Developments shall be owned by KBC as from their creation. Where a Specific Development consists of software, Supplier shall supply all Source Code to KBC with each new version of the Specific Development that Supplier provides to KBC.

Supplier shall not supply any Materials for which it has knowledge of any Third Party claim or legal action against it or its licensors regarding infringement of IPR. For any Third Party claims relating to the infringement of IPR, clause 5.1 shall not apply.

## 7 AFFILIATES

The Agreement shall be construed in such way that each KBC Recipient can exercise the rights and benefits granted to KBC with respect to the Deliverables without any additional fees or costs. KBC shall, in particular, have the right to sublicense the Deliverables to the KBC Recipients, and to swap the Deliverables between KBC Recipients (also cross-border). Upon Supplier's written request, KBC will inform Supplier which KBC Recipients make use of the Deliverables.

While the various parts of the Agreement mostly refer to KBC (in singular) to facilitate easier reading, Supplier acknowledges that all references to KBC in all contexts where a right or benefit is assigned to "KBC" shall be deemed to be references to all KBC Recipients. KBC's rights in this regard shall only be limited by explicit usage restrictions that would be set forth in the Agreement, if any (e.g., a specified maximum number of seats or concurrent users, or use of products within a certain territory). Supplier also agrees that the persons and entities that qualify as "KBC Recipient" can change over time, both during and after the Term, due to changes in the KBC group and its commercial model.

In the event of a divestment by KBC group of (a part of) its operations or entities, KBC has the right to continue treating such divested operations / entities as real KBC Affiliates for the purposes of the Agreement (so as to allow them to continue exercising the rights granted to them under the Agreement), for a period of up to thirty-six months from such divestment.

## 8 DATA PROTECTION

### 8.1 ROLES OF THE PARTIES

The KBC Recipient is the controller and Supplier is the processor of personal data received from a KBC Recipient.

Supplier shall only process the personal data received from the KBC Recipient for the purpose of the provision of the Deliverables and the duration of the processing is limited to the duration necessary for such provision. Supplier shall act only on documented instructions from the KBC Recipient and will not communicate the personal data to third parties.

Parties shall conclude an annex to this agreement containing amongst others a description of the nature and purpose of the processing, the type of personal data, and categories of data subjects involved and any additional obligations and rights of the Parties relating to the processing of personal data under this Agreement.

### 8.2 SUPPLIER'S OBLIGATIONS AS A PROCESSOR

Supplier shall implement appropriate technical and organizational measures:

- (i) to protect personal data received from a KBC Recipient in accordance with the GDPR and the data protection laws and rules applicable to the KBC Recipient, as well as the rules and guidelines issued by the competent data protection authorities. Such measures shall ensure a level of security appropriate to the associated risks and the nature of the personal data and will take in account the state of the art, the cost of implementation, and the nature, scope context and purposes of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. In this respect, Supplier shall at least comply with the KBC group's Minimum Security Requirements for Processing KBC Data, which form an integral part of this Agreement;
- (ii) to assist the KBC Recipient in the fulfilment of his obligation to respond to data subjects exercising their data subject rights, including inter alia the right to information and to access personal data, the right to rectification and erasure, the right to restriction, the right to data portability and the right to object.

Without prejudice to the generality of the foregoing, Supplier shall in particular:

- (i) not process any personal data received from (or created or collected for) the KBC Recipient for its own purposes;
- (ii) not process any personal data outside the EEA without the KBC Recipient's prior written consent; If such consent would be given, Supplier shall ensure that the necessary safeguards are in place to ensure that the processing outside the EEA is GDPR compliant;
- (iii) not perform or omit any action that would cause the KBC Recipient to breach any of the data protection laws or rules it is subject to;

- (iv) permit the KBC Recipient, competent supervisory authorities and auditors mandated by the KBC Recipient or by competent supervisory authorities to inspect and audit the data processing activities; and shall comply with all requests or directions issued during or as a result of such inspection at the Supplier's own expense;
- (v) not appoint the processing of personal data received from a KBC Recipient to a sub-processor without the prior written consent of the KBC Recipient; nor change or replace a pre-approved sub-processor without the KBC Recipients prior written consent. Supplier shall conclude with such appointed sub-processor an agreement containing the same data protection obligations as set out in the Agreement and shall remain liable to fulfil its obligations as a processor under the Agreement when he engages a sub-processor to perform certain processing activities on its behalf.
- (vi) ensure that its staff and other persons authorised to process the KBC Recipient's data are bound by an enforceable duty of confidentiality;
- (vii) notify the KBC Recipient in the case of a personal data breach immediately and in any event no later than 24 hours after having become aware of it;
- (viii) assist the KBC Recipient in assessing the impact of the envisaged processing operations on the protection of personal data;
- (ix) at the choice of the KBC Recipient, delete or return all the personal data to the KBC Recipient after the end of the processing related to the provision of the Deliverables, and delete existing copies;
- (x) maintain a personal data record enabling the Supplier to provide the necessary information on the processing to the KBC Recipient; Such personal data record shall contain at least the following information:
  - Name and contact details of processor and controller;
  - Name and contact details of the processor's data protection officer, if one is required according to the GDPR;
  - The categories of processing carried out on behalf of controller;
  - A general description of the technical and organisational security measures that are in place to ensure compliancy with the GDPR and other applicable data protection laws;
  - If this occurs after the Supplier has obtained the KBC Recipient's prior written consent, the transfers of personal data to a country outside the EEA, including the identification of those third countries and documentation of the suitable safeguards that are in place for specific situations except when the transfer is based on an adequacy decision;
- (xi) ensure that a personal data record, as described in this Agreement, is kept by the sub-processors for the activities they perform on the Supplier's behalf except in case the data record of the Supplier itself contains the information regarding the processing activities that are being performed by those sub-processors;

Clause 5.1 shall not apply to Supplier's breach of this clause 8.

## 9 TERMINATION

### 9.1 TERMINATION EVENTS

Each Party can terminate this Agreement wholly or partially for cause, without intervention of a court, without being liable to pay any termination fee, by notifying the other Party in writing, in case of: (i) a Force Majeure Event exceeding thirty days; (ii) fraud or willful intent of the other Party; and/or (iii) material breach committed by the other Party which — if capable of being remedied — is not remedied within fifteen Business Days of receipt of a written notice specifying the breach. For the purposes of this clause 9, several small breaches shall together also be deemed a material breach. The same rights shall apply to KBC in case: (i) Supplier is acquired by or merges with a Third Party (excluding Supplier's Affiliates); (ii) of Supplier's Insolvency, or in case Supplier is over-indebted, illiquid, or illiquidity is impending; and/or (iii) the property of Supplier becomes subject to an attachment, in so far as this attachment brings to light a substantial adverse influence on its solvency, or hinders or renders impossible the performance of its obligations.

## 9.2 CONSEQUENCES OF TERMINATION

Upon termination of the Agreement for convenience, Supplier shall be entitled to payment by KBC of those Deliverables duly delivered by Supplier and Accepted by KBC. Upon termination of the Agreement for any reason, Supplier shall: (i) submit the Deliverables to KBC in the condition they are in at that moment; (ii) refund all upfront or advance payments and other fees that are not fully substantiated by Supplier's performance; and (iii) execute any exit services specified in the Cover Document. Upon termination of the Agreement for cause, the terminating Party shall be entitled to a one-off damages payment of 10% of the total Charges paid or payable under the Agreement.

## 10 MISCELLANEOUS

**Electronic workflow** – Supplier agrees that KBC may: (i) request electronic invoices; (ii) use electronic or printed signatures on purchasing documents; and (iii) issue purchasing documents by email.

**Assignment** – Neither Party may assign the Agreement without the prior written consent of the other Party. Subject to prior notice, KBC can wholly or partially assign the Agreement (incl. any license) to any KBC Affiliate.

**Entire agreement** – Supplier's own contractual provisions, however named ("*terms of sales/use*", "*general conditions*", "*EULA*", etc) shall not apply, even when they claim precedence or are accepted by a user of the Deliverables. The entire agreement shall consist of the documents explicitly listed in the Cover Document, and shall be without prejudice to the "*KBC General Policy For External Suppliers*" signed separately by Supplier.

**Ordering** – Unless otherwise agreed in writing by KBC's procurement department in Belgium ("KDPB"): (i) any commercial or legal discussions (incl. new business proposals) shall only be entered into with KDPB; (ii) Deliverables can only be ordered through formal KBC purchasing documents ("PDs"); (iii) PDs can only be submitted by KDPB; (iv) KBC has the right to terminate for cause any PD that was placed by any entity other than KDPB; and (v) KBC can request Supplier to (have Supplier's local Affiliate) invoice all or part of the Deliverables to a local branch or Affiliate of KBC.

**Promotional material** – Without the other Party's written approval, no public announcement or promotional material of a Party shall mention or suggest the existence of the Agreement. Neither Party shall use the other Party's trade names, trademarks or logos without prior written consent.

**Confidentiality** – The Parties have executed or will execute a non-disclosure agreement. Clause 5.1 shall not apply to Supplier's breach of this non-disclosure agreement.

**Interpretation** – Except where explicitly indicated otherwise, the rights and remedies that are assigned (including, for the avoidance of doubt, service credits, fee reductions and penalties), shall be cumulative with, and without prejudice to, the other rights and remedies that are accorded to KBC by law or by the other provisions of the Agreement.

**Subcontracting** – Supplier may engage subcontractors, provided that KBC's prior written consent is obtained for subcontractors that are not Affiliates of Supplier. Notwithstanding KBC's prior consent, Supplier shall remain fully responsible for its subcontractors and shall at all times bear full responsibility for the correct fulfillment of its obligations.

**Law & court** – The Agreement shall be governed by and construed in accordance with the laws of Belgium, without reference to its conflicts-of-law-rules. Any dispute relating to it shall be brought before the courts of Brussels. At any time, Parties may already apply to these or other courts having jurisdiction for any provisional (including protective) measures.

## 11 DEFINITIONS

**Acceptance Date**: the date on which a Deliverable is Accepted by KBC;

**Accept, Accepted and Acceptance** means in conformity with its Specifications. Acceptance shall be without prejudice to liability for hidden defects, and obligations during any agreed warranty or maintenance period;

**Acceptance Tests**: (i) the explicit criteria that must be complied with by the Deliverables to meet the Specifications; (ii) the tests explicitly agreed by the Parties (if any) to test whether such criteria are actually met; or (iii) when no explicit tests are agreed, any ad-hoc testing performed to check the Deliverables for compliance with the Specifications;

**Affiliate** has the meaning of article 11 of the Belgian Company Code. With respect to KBC, CERA CVBA and KBC Ancora shall also qualify as Affiliates;

**Agreement** has the meaning as set forth in the Cover Document;

**Background Material**: any Material owned or licensed by a Party that does not qualify as Specific Developments;

**Business Day:** any day that is not a Saturday, Sunday, legal holiday or any other day on which a KBC Recipient is authorized or required by law or other government action to be closed;

**Charges:** the agreed price (including all relevant fees and costs) that will be paid by KBC in consideration for the correct provision of the Deliverables, as set forth in the Cover Document;

**Commercially Reasonable Efforts:** exercising that degree of skill, care, diligence, foresight, efficiency and timeliness which would be expected of a skilled, trained and experienced commercial supplier in the field of the Deliverables;

**Controller:** shall have the meaning as defined in the GDPR;

**Cover Document:** the document entitled "Cover Document". The expressions "*specified / described / set forth in the Cover Document*" also cover the annexes and schedules referred to in the Cover Document;

**Data subject:** shall have the meaning as defined in the GDPR;

**Deliverables:** all products and/or services to be delivered by Supplier;

**Effective Date:** the date on which the Agreement is signed by both Parties, or any other date indicated in the Cover Document;

**Force Majeure Event:** has the meaning generally set forth by Belgian case law and legal doctrine. Force Majeure Events shall never include lack of staff, staff illness, bugs in third party software, unavailability of telecommunication connections, late delivery or unsuitability of materials or services, failure to hold demanded permits, or liquidity / solvency problems;

**Further Maintenance** means that a programmer can understand how the software functions, and can maintain, adapt and expand it without requiring any other documentation or software (other than off-the-shelf software, such as a standard development environment);

**GDPR:** Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC

**Good Industry Practice:** the exercise of such high degree of skill, diligence and foresight which would reasonably be expected from someone experienced in providing the Deliverables for the financial sector;

**Insolvency** means that bankruptcy, insolvency or comparable proceedings have been initiated;

**KBC** means the entity defined in the Cover Document;

**KBC group** means, collectively, KBC and all KBC Affiliates;

**KBC Recipient** means, collectively, KBC, KBC Affiliates, independent assurance agents that operate under any of the brands of KBC group, as well as the clients to which KBC provides outsourcing services;

**Key Staff:** those Staff members designated in the Cover Document or, in absence thereof, all Staff members;

**Material:** (a part of) any document, methodology or process, data or other material in whatever form (such as reports, Source Code, flow charts, plans, documentation, user manuals, training materials, etc);

**Personal data:** shall have the meaning as defined in the GDPR;

**Processor:** shall have the meaning as defined in the GDPR;

**Relief Event:** any breach by KBC of its obligations under this Agreement that materially affects Supplier's ability to provide the Deliverables;

**Source Code:** all files (programming instructions, plans, compiler or development environment settings, graphics, etc.) on which the development of software is based and that are required for Further Maintenance;

**Specifications:** the description of the requirements of the Deliverables. When requirements are not explicitly listed for a specific (part of a) Deliverable, they shall be deemed to be those that reasonably apply to its intended use, taking into account Good Industry Practice and the compliance requirements set forth in clause 3.2;

**Specific Development:** any Material that is: (i) specifically created, modified or extended for KBC, or following the specifications of KBC; or (ii) designated as "specific development", "customization", "bespoke", etc;

**Standard Rates:** the hourly or manday rates for the provision of Deliverables on a time-and-materials basis, as set forth in the Cover Document. When no rates are agreed, the Standard Rates shall be in line with the industry average, taking into account the Deliverables' nature and volume, as well as the discounts generally granted to KBC by Supplier;

**Staff:** the interim employees, permanent employees and agents of Supplier (or its subcontractors) who will provide the Deliverables;

**Term:** the entire term of the Agreement (calculated as from the Effective Date), as set forth in the Cover Document;

**Third Party:** any person who is not a Party or Affiliate of a Party.