

## CONSULTANCY TERMS AND CONDITIONS

These consultancy terms and conditions (“Consultancy Terms and Conditions”) govern the provision of all services performed by KAN Creative Consultants nv, with registered office at Mechelsesteenweg 271/6.1, 2018 Antwerp, Belgium, with CBE/VAT number BE0441.918.340 (“Service Provider”, “Party”), for the provision of the services referred to in the Quote, as agreed between the Service Provider and the Customer.

### 1. DEFINITIONS

The following terms are defined for the purposes of these Consultancy Terms and Conditions:

1.1 Copyright: the ownership rights to the original works of authorship, expressed on a tangible medium, as defined and enforceable under Copyright Law.

1.2 Annex: all documents and annexes as agreed and accepted by both Parties, which are validly attached to these Consultancy Terms and Conditions and which form an integral part of the Consultancy Terms and Conditions.

1.3 Consultancy Terms and Conditions: the full contents of this document, all Annexes and all documents or annexes of them.

1.4 Final Creations: all creative content developed or created by the Service Provider, or commissioned by the Service Provider, exclusively for the purpose of executing the Quote and which is included and delivered as part of the Services, such as, but not limited to, all visual designs, visual elements, graphic designs, illustrations, images, animation, sounds, typographic processing and texts, changes to the Content Provided by the Customer and the selection, arrangement and coordination of these elements together with the Third Party Content and/or Material Provided by the Customer by the Service Provider.

1.5 Services: all services and work products to be provided by the Service Provider to the Customer as described and further defined in the Quote.

1.6 Content Provided by the Customer: all material, information, (personal) data, images, writings and other creative content provided by the Customer to the Service Provider for the purpose of delivery of the Services.

1.7 Trademarks: trade names, words, symbols, designs, logos or other devices or designs that are used in the Final Creations to indicate the origin or source of the Customer's goods or services.

1.8 Customer (or “Party”): the entity mentioned in the Quote for the Services of the Service Provider.

1.9 Third Party Material: material owned by third parties and included in the Services, including but not limited to stock photography or illustrations.

1.10 Quote: the document describing the Services to be provided and may contain specific conditions of the execution of the Quote, such as the Project, the pricing, the service conditions, the quality standards, the costs, etc., and to which these Consultancy Terms and Conditions apply.

1.11 Original Creations: all originally produced creations, including the first versions of the creations created by the Service Provider, its staff or its contractors.

1.12 Parties: this is understood to mean jointly the Service Provider and the Customer.

1.13 Personal Data: all data relating to an identified or identifiable living natural person. Loose data that can lead to the identification of a certain person also constitutes personal data.

1.14 Project: the cooperation between the Service Provider and the Customer, limited in time and resources, for the development of a new creation.

1.15 Preparatory Work: means all creations including but not limited to concepts, sketches, visual representations or other alternative or provisional designs and documents which are developed by the Service Provider and which may or may not be shown or delivered to the Customer for discussion, but which are not part of the Final Creations.

## **2. QUOTE**

The Parties agree to the provision of the Services by the Service Provider to the Customer as regulated in these Consultancy Terms and Conditions, on the basis of the conditions set out in these Consultancy Terms and Conditions, the Annexes and the special conditions provided in the Quote.

For each proposal a Quote is made by the Service Provider that is valid for 30 calendar days after the presentation to the Customer. In the event and as long as this Quote is not accepted by the Customer within the specified period, the Quote and any associated conditions and performances may be amended, changed or replaced.

## **3. AMENDMENTS**

3.1 Amendments. Unless stipulated otherwise in the Quote, the Customer must pay additional costs for amendments requested by the Customer that fall outside the scope of the Services, on the basis of time and materials at the Service Provider's standard hourly rate as described in the Quote. Such costs are in addition to any other amounts payable under the Quote, notwithstanding any maximum budget, contract price or final price provided for. The Service Provider may extend or alter any delivery schedule or delivery period provided for in the Quote and Services if so required by such amendments.

3.2 Material Amendments. If the Customer requests or instructs Amendments that amount to a revision of at least 25% of the time required to deliver the Services, or of the value or scope of the Services, the Service Provider may submit a new and separate Quote to the Customer for written approval. The revised Services will not commence until a fully signed revised Quote is agreed on and, if necessary, until the Service Provider has received any additional advance payments.

3.3 Timing. The Service Provider will give priority to the performance of the Services as may be necessary or as provided for in the Quote and will make reasonable commercial efforts to perform the Services within the period(s) stipulated in the Quote. The Customer agrees to assess the Services within the period provided for such assessments and to promptly either (i) approve the Services in writing, or (ii) submit written comments and/or corrections by means of which the

Customer's concerns, objections or corrections are made clear to the Service Provider. The Service Provider may request written clarifications of a concern, objection or correction. The Customer acknowledges and agrees that the Service Provider's ability to comply with any schedules depends entirely on the prompt fulfilment by the Customer of his obligations to provide material and written approvals and/or instructions in accordance with the Quote and that any delay in the performances of the Customer or any changes to the Services requested by the Customer may delay the delivery of the Services. Any such delay caused by the Customer does not constitute a breach of any condition or obligation of the Service Provider under these Consultancy Terms and Conditions.

3.4 Testing and Acceptance. The Service Provider will make reasonable commercial efforts to test the Services and to make all necessary corrections before the Services are provided to the Customer. The Customer must inform the Service Provider, within a period of 1 month after receipt of each Service, in writing of any failure of such Service to comply with the specifications set out in the Quote or of any other objections, corrections, changes or modifications that the Customer has or wishes to make to this Service. Any such written notice must be sufficient to clearly identify the objection, correction, amendment or modification and the Service Provider undertakes to carry it out in a commercially timely manner. All objections, corrections, changes or modifications are subject to the terms and conditions of these Consultancy Terms and Conditions. In the absence of such notification from the Customer, the Service is deemed to have been accepted.

#### **4. FEES AND CHARGES**

4.1 Fees. In return for the Services to be performed by the Service Provider, the Customer will pay the Service Provider the fees of which the amount and the payment schedule are set out in the Quote and the Consultancy Terms and Conditions, as well as any applicable sales tax, use tax or VAT, even if these are calculated or assessed after the payment schedule has been drawn up.

4.2 Expenses. The Customer will pay the additional costs and expenses incurred by the Service Provider (including but not limited to postage and delivery costs, costs associated with the night courier, blueprints, models, presentation material, photocopies) incurred in connection with the performance of the Quote. The Customer will also pay all material costs outsourced by the Service Provider.

4.3 Additional Costs. The price for the Project and Services includes only the Service Provider's fee. All external costs, including but not limited to costs related to the rental of material, costs and fees for photographers, licenses for photography and/or illustrations, costs related to the production of prototypes, talent fees, music licenses and online access or hosting costs, will be invoiced to the Customer, except for specific contradictory stipulations in the Quote.

4.4 Invoices. All invoices are payable within 30 calendar days from the last day of the month in which the invoice is drawn up. Monthly service charges of 1.5% are payable on all outstanding balances. Payments are first credited to the costs associated with the late payment and then to the outstanding balance. The Customer is responsible for all collection costs or legal fees due to the late payment or lack of payment. The Service Provider reserves the right to refuse delivery and any transfer of ownership of work in progress if the bills do not correspond to the current situation or if overdue invoices have not been paid in full. All assignments of a license for use or transfer of ownership of any intellectual property right to goods and Services that are the subject of the Quote and these Consultancy Terms and Conditions are subject to full payment, including all outstanding additional costs, taxes, expenses and fees, charges or costs related to Amendments.

## **5. CUSTOMER RESPONSIBILITIES**

5.1 The Customer must provide the Service Provider with all information, documents, assistance and support that is reasonably necessary or useful to perform the Services. Notwithstanding the foregoing, the Service Provider is solely responsible for the performance of the Services pursuant to the Quote and these Consultancy Terms and Conditions. If any changes are made to the documents or information provided, the Customer must inform the Service Provider immediately.

5.2 The Customer acknowledges that he is responsible for the execution of the points below, and this in a reasonable and timely manner:

(a) the coordination of any decision-making with parties other than the Service Provider;

(b) the provision of Content provided by the Customer in a form suitable for reproduction or for inclusion in the Service without further preparation, unless explicitly stated otherwise in the Quote; and

(c) the final revision and, in the event that the Customer has accepted the Services but the finished product contains errors such as, by way of example but not limited to, typographical or spelling errors, the Customer shall bear the costs associated with correcting such errors.

## **6. ACCREDITATION / PROMOTION**

All Services screenings or publications must contain the accreditation and/or copyright notice in the Service Provider's name in the form, to the extent and in the place as included in the Services by the Service Provider, or as otherwise indicated by the Service Provider. The Service Provider retains the right to reproduce, publish and display the Services in portfolios and on the Service Provider's websites and in galleries, design magazines and other media or exhibitions in order to ensure recognition of creative excellence or professional advancement and to obtain authorship of the Services in connection with such use. Subject to the reasonable approval of the other Party, either Party may describe their role in relation to the Final creation and, where appropriate, describe the services provided by the other Party on their website and in other promotional literature and, if not expressly objected to, include a link to the other Party's website.

## **7. INTELLECTUAL PROPERTY**

7.1 Content Provided by the Service Provider. All already existing content, creations, works of authorship, inventions and other creations protected by intellectual and industrial property rights or trade secrets of the Service Provider, remain the exclusive property of the Service Provider, including but without limitation previous creations, internal documents, trademarks, formal marks, models, designs and know-how. All files, documents, papers (such as copies and summaries thereof) and other work protected by copyright which the Service Provider has drawn up or acquired in the performance of its tasks under and in connection with the Quote in respect of the Services, together with all worldwide copyrights, patent rights and design rights in respect of all such work, will at all times remain the exclusive property of the Service Provider.

7.2 Content Provided by the Customer. Any Content Provided by the Customer, including all pre-existing Trademarks, shall remain the exclusive property of the Customer or its respective service providers, and the Customer or its service providers shall be the sole owners of all rights relating thereto. The Customer hereby grants the Service Provider a non-exclusive,

non-transferable license to use, reproduce, modify, display and publish the Content provided by the Customer, but only in connection with the performance of the Services by the Service Provider and the limited promotional use of the Services as permitted under these Consultancy Terms and Conditions.

7.3 Third Party Material. All Third Party Material is the exclusive property of its respective owners. The Service Provider informs the Customer of any Third Party Material that may be required to perform the Services or otherwise be included in the Final Creations. In such circumstances, the Service Provider must inform the Customer if a license is required at the expense of the Customer and, subject to any other provision of the Customer, the Customer must obtain the necessary license(s) to enable the Customer to use the Third Party Material in accordance with the rights of use granted herein. In the event that the Customer fails to secure the necessary licenses in an appropriate manner or obtain them by any other means, or if the Customer requests the use of Third Party Material, the Customer must indemnify, hold harmless and hold the Service Provider harmless from and against any and all damages, liability, costs, loss or expenses arising out of any claim, claim or legal action brought by a third party arising out of the Customer's inability to obtain the rights or permissions in respect of copyright, trademark, publicity or privacy, or express exemption from defamation, and other releases or permissions relating to the material contained in the Final Creations.

7.4 Preparatory Work. The Service Provider reserves all rights to and in connection with all Preparatory Work. Within a period of 30 calendar days after completion of the Services, the Customer must return all Preparatory Work to the Service Provider and all rights to and in connection with any Preparatory Work remain the exclusive property of the Service Provider.

7.5 Original Creations. The Service Provider retains all rights and claims to and in connection with the Original Creations, as well as all rights to display or sell such Creations. Within a period of 30 calendar days after completion of the Services, the Customer must return all Original Creations to the Service Provider.

7.6 Final Creations. After completion of the Services, and under the express condition of full payment of all fees, costs and expenses due, the Service Provider hereby grants all rights, titles and interests to the Customer, including but not limited to the copyrights and other intellectual property rights on and in connection with the Final Creations. The Service Provider agrees to cooperate with the Customer in a reasonable manner and must provide all additional documents reasonably necessary to prove such grant. licenses on the Definitive Creations are covered by the standard fees, except for contradictory stipulations in the Quote.

7.7 Trademarks. After completion of the Services and under the express condition of full payment of all fees, costs and expenses due, the Service Provider grants the Customer all property rights, including any copyrights on and in connection with all creations or designs, such as the work created by the Service Provider to be used by the Customer as a Trademark. The Service Provider must cooperate with the Customer and must provide all additional documents reasonably requested by the Customer to prove such attribution. The Customer is solely responsible for ensuring that any proposed Trademark or Final Creation intended as a Trademark is available for commercial use and official registration and does not otherwise infringe the rights of any third party. The Customer hereby undertakes to indemnify, hold harmless and hold the Service Provider harmless from and against any and all damages, liability, costs, losses or expenses arising from any claim, demand or action by any third party that violates the rights of use of the Trademark and/or the inability to obtain rights of use of the Trademark.

## **8. DATA PROTECTION**

8.1 Responsible for Data Processing. In maintaining a good business relationship, the Parties will process Personal Data of each other or of each other's personnel. The Personal Data processed are, for example, names, positions, e-mail addresses, telephone numbers, correspondence, contracts and the contact history. These Personal Data will be processed on the basis of the execution of the Quote and these Consultancy Terms and Conditions (if the Customer is the data subject) or on the basis of legitimate interests (if the Customer acts through representatives). The Parties agree to inform each other's staff in an appropriate manner about all aspects of data protection and to process the Personal Data in accordance with the European General Data Protection Regulation of 27 April 2016.

8.2 Data processor. In the performance of the Quote, the Service Provider will also act as a Data Processor within the meaning of the European General Data Protection Regulation of 27 April 2016 with respect to the Personal Data processed in the context of the provision of the Services. This processing is governed by the Processor Regulations that are attached to the present Consultancy Terms and Conditions as Annex A.

## **9. CONFIDENTIAL INFORMATION**

Each Party acknowledges that, in connection with the Quote and these Consultancy Terms and Conditions, it may receive certain confidential information or technical and business proprietary information and material from the other Party, including but not limited to the preparatory Work ("Confidential Information"). Each Party, its agents, and employees must keep all Confidential Information strictly confidential. They shall not disclose the Confidential Information to any third party and shall not use any Confidential Information except to the extent necessary to carry out its obligations under the Quote, or to the extent necessary pursuant to a court order or an order of a public authority. Notwithstanding the foregoing, the Confidential Information does not include any information in the public domain or made public through no fault of the receiving Party, or otherwise properly received by a third party without any obligation of confidentiality.

## **10. RELATIONSHIP BETWEEN THE PARTIES**

10.1 Independent Contractor. The Service Provider is an independent contractor, and not an employee of the Customer or any company associated with the Customer. The Service Provider must provide the Services under the general management of the Customer, but the Service Provider determines at its own discretion the manner in which and the means by which the Services are completed. The Quote and/or Project does not create a partnership or joint venture and neither Party is authorized to act as an agent or to bind the other Party, except as expressly stated in the Quote or in these Consultancy Terms and Conditions. The Service Provider and the Services delivered by the Service Provider are not deemed to be assigned work as defined in the Copyright Act. Where applicable, all rights granted to the Customer are of a contractual nature and fully defined by the express written agreement between the Parties and by the various terms and conditions provided by the Quote and these Consultancy Terms and Conditions.

10.2 Trustees of the Service Provider. The Service Provider may hire third party service providers or other service providers as independent contractors and/or make use of them in connection with the performance of the Services ("Agents of the Service Provider"). Notwithstanding this, the Service Provider remains fully responsible for the compliance by such an agent of the Service Provider with the Consultancy Terms and Conditions.

10.3 Prohibition of acquisition. During the term of the performance of the Quote and for a period of six (6) months after the expiry or termination of it, the Customer agrees not to approach, recruit, employ or otherwise employ or retain any Service Provider, employee or Representative of the Service Provider on a full-time, part-time, consultative, work or other basis, regardless of whether the person concerned has to perform tasks in execution of the Quote. In the event of such hiring, consultation or hiring of work, the Customer agrees that the Service Provider is entitled to an agency commission to the amount of the largest number between: (a) 25% of the starting salary of the person concerned with the Customer, or (b) 25% of the fees paid to the person concerned if he has been hired by the Customer as an independent contractor. In the above case (a), payment of the commission is due within a period of 30 calendar days from the commencement date of the employment. In the aforementioned case (b), payment shall be due at the end of each month in which the independent contractor has performed services for the Customer. In the event of non-payment in connection with this section, the Service Provider is entitled to appeal to all legal remedies.

10.4 No Exclusivity. The Parties explicitly acknowledge that the Quote does not create an exclusive relationship between the Parties. The Customer is free to hire other persons to carry out services of the same or similar nature as those provided by the Service Provider and the Service Provider may offer and provide design services to other persons, may recruit other customers and may advertise the services he offers in any other way.

## **11. GUARANTEES AND DECLARATIONS**

11.1 By the Customer. The Customer declares, guarantees and undertakes to the Service Provider that:

(a) the Customer owns all rights, titles and interests in the Content Provided by the Customer, or that the Customer otherwise has the full right and authority to allow the use of the Content Provided by the Customer;

(b) to the best of the Customer's knowledge, the Content Provided by the Customer does not infringe the rights of any third party and that the use of the Content Provided by the Customer as well as Trademarks in connection with the Project does not infringe the rights of any third party;

(c) the Customer shall comply with the terms of all license agreements governing the use of Third Party Material;

(d) the Customer shall comply with all laws and regulations relating to the Services; and

(e) the Customer's company is properly constituted, validly exists and has a good reputation in accordance with the law governing its statute or incorporation and that it has the necessary power, financial standing and authority to perform and deliver its obligations under the Quote.

11.2 By the Service Provider

(a) The Service Provider hereby declares, guarantees and undertakes to the Customer that the Service Provider will provide the Services identified in the Quote in a professional and competent manner and in accordance with all reasonable professional standards for such services.

(b) In addition, the Service Provider declares, guarantees and undertakes to the Customer that (i) the Final Creations, with the exception of Third Party Material and the Content Provided by the Customer, are the original work of the Service Provider and/or its independent contractors, (ii) in the event that the Final Creations contain the work of independent contractors ordered by the Service Provider for the Project, the Service Provider will enter into agreements with these contractors whereby all necessary rights will be granted, titles to and interests in the Final Creations are sufficiently granted so that the intellectual property rights provided for in these Consultancy Terms and Conditions may be granted, and (iii) that the Final Creations provided by the Service Provider and the subcontractors of the service providers, to the best of the Service Provider's knowledge, do not infringe the rights of a Party and that their use in connection with the Project does not infringe the rights of any third party. The Service Provider has not conducted an independent legal investigation into the verification of intellectual property rights. In the event the Customer or third parties change the Services, otherwise use them outside the scope of or for a purpose not mentioned in the Quote or in these Consultancy Terms and Conditions, or use them contrary to the terms and conditions contained herein, all statements and guarantees of the Service Provider are null and void.

(c) With the exception of the express representations and warranties set forth in these Consultancy Terms and Conditions, the Service Provider makes no warranties of any kind and the Service Provider expressly disclaims all other express or implied warranties of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose or for compliance with the laws, governmental rules or regulations applicable to this project.

## **12. INDEMNITY/LIABILITY**

12.1 From the Customer. The Customer agrees to indemnify, hold the Service Provider harmless and hold the Service Provider harmless against all damages, liabilities, costs, loss or expenses arising from any claim, demand or action by any third party arising from a breach of the responsibilities or obligations, representations or warranties of the Customer under the Quote and these Consultancy Terms and Conditions. In such circumstances, the Service Provider must inform the Customer in writing of any claim or litigation;

(a) the Customer has sole authority over the defence and all related negotiations for amicable settlements; and

(b) the Service Provider provides the Customer with reasonable commercial assistance, information and the necessary authority to enable the Customer to carry out his obligations under this section. The Customer must reimburse the reasonable expenses incurred by the Service Provider in the context of such assistance.

12.2 From the Service Provider. Subject to the terms, conditions, express statements and guarantees provided in the Quote and these Consultancy Terms and Conditions, the Service Provider agrees to indemnify, hold harmless and hold the Customer harmless against all damages, liabilities, costs, loss or expenses arising from any fact not in accordance with the statements and guarantees made herein by the Service Provider, except in the event such claims, damages, liabilities, costs, loss or expenses are the direct result of gross negligence or misconduct of the Customer, provided that:

(a) the Customer notifies the Service Provider immediately in writing of the claim;

(b) the Service Provider has sole control over the defence and all related negotiations for amicable settlements; and

(c) the Customer provides the Service Provider with the necessary assistance, information and authority to enable the Service Provider to carry out its obligations under this section. Notwithstanding the foregoing, the Service Provider is not obliged to defend or otherwise indemnify the Customer for any claim or unfavourable factual determination which arises from or is due to the Content provided by the Customer, the unauthorized content, the unauthorized or unlawful use or the inability to update or maintain the Services provided by the Service Provider.

12.3 Limitation of Liability. The Service Provider's Services and work products are sold in the condition in which they are ("as is"). In all circumstances, the maximum liability of the Service Provider, its directors, employees, agents of the Service Provider and its affiliated companies ("Service Provider Parties") towards the Customer for damage arising from any cause whatsoever, and the maximum remedy of the Customer, regardless of its form or claim and whether in a contractual, non-contractual or other context, is limited to the net profit of the Service Provider arising in the year in which the damage arose. Under no circumstances will the Service Provider be liable for any loss of data or content, for loss of profit, for business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damage arising out of or in connection with the material or services provided by the Service Provider, even if the Service Provider has been informed of the possibility of such damage and notwithstanding the failure of any essential purpose of a limited measure.

### **13. DURATION AND TERMINATION**

13.1 The execution of the Quote commences on the date on which the Customer explicitly accepts the Service Provider's Quote or from the start date, specifically indicated on the Quote, and remains in force until the Services have been completed and delivered.

13.2 The execution of the Quote can be terminated at any time by one of the Parties with immediate effect after the notification, by mutual consent of the Parties or in case of one of the Parties:

(a) becomes insolvent, files a petition for bankruptcy, establishes a privilege or security for the benefit of the creditors; or

(b) violates any of its material responsibilities or obligations under the Quote and/or these Consultancy Terms and Conditions, if such violation has not been remedied within 10 days of receipt of written notice of the violation.

13.3 In the event of termination of the execution of the Quote, the Service Provider must be compensated for the Services performed up to the date of termination, up to the highest amount between: (a) any advance payment, (b) a pro rata part of the fees due or (c) the hourly rate of remuneration for the work performed by the Service Provider or its agents on the date of termination. In addition, the Customer must reimburse all expenses, costs, expenses and any additional expenses incurred up to the date of termination.

13.4 In case of termination of the execution of the Quote by the Customer and in case of full

payment of the compensation as provided herein, the Service Provider grants the rights and titles as provided in Article 7.6 of these Consultancy Terms and Conditions with regard to Services delivered to the Customer and accepted by the Customer on the date of termination.

13.5 Upon expiration or termination of the execution of the Quote: (a) each Party must return the Confidential Information of the other Party or, at the request of the disclosing Party, destroy the Confidential Information, and (b) unless otherwise provided herein, all rights and obligations of each Party under the Quote and these Consultancy Terms and Conditions, except for the Services, will survive.

## **14. GENERAL**

14.1 Amendment/Disclosure of Waiver. The Quote may be amended by the Parties. Any amendment to the Quote must be made in writing. The failure of either Party to enforce any right or remedy against any breach of the Quote and these Consultancy Terms and Conditions will not be construed as a waiver of such rights, nor will a waiver by either Party of any breach in one or more cases be construed as a continuing waiver or a waiver of any other breach.

14.2 Notices. All notices given in connection with the Quote must be in writing by email with acknowledgement of receipt or by registered letter, to the addresses set out in Clause 14.9, unless written notice of a change of address is given. Notification shall take effect upon receipt.

14.3 No Transfer. Neither Party may, either in writing or orally, transfer or encumber its rights or obligations under the Quote and these Consultancy Terms and Conditions, or allow them to be transferred, assigned or encumbered by the operation of law or otherwise, without the prior written consent of the other Party.

14.4 Force Majeure. The Service Provider will not be deemed to be in breach of the Quote and these Consultancy Terms and Conditions if the Service Provider is unable to complete the Services or any part thereof because of a fire, earthquake, labor dispute, case of force majeure, open hostility, death, illness or incapacity of the Service Provider or any local, provincial, federal, national or international law, government order or regulation or any other event beyond the Service Provider's control (collectively referred to as a "Force Majeure Event"). When a Force Majeure Event occurs, the Service Provider must notify the Customer of its inability to perform the Services or of the delay in the performance of the Services and must propose a revision of the timetable for completion of the Services.

14.5 Applicable Law and Dispute Resolution. The conclusion, construction, performance and enforcement of the Quote and these Consultancy Terms and Conditions must be in accordance with the laws of the Kingdom of Belgium, without regard to its conflict of law provisions or the conflict of law rules of other jurisdictions. In the event a dispute arises that relates to the Quote, these Consultancy Terms and Conditions and other documents referred to, the Parties agree to seek to resolve any dispute through negotiation between them. If the Parties are unable to resolve the dispute through negotiation, they will submit the dispute to mediation. If the dispute cannot be resolved through mediation, the dispute must be settled by the courts of the city of Antwerp (Belgium).

14.6 Severability. Whenever possible, each provision of these Consultancy Terms and Conditions will be interpreted in such a way that it has effect and is valid under applicable law. However, if any provision of these Consultancy Terms and Conditions is considered invalid or unenforceable, the



remaining provisions of these Consultancy Terms and Conditions will nevertheless remain in full force and effect and the unenforceable provision will be replaced by a valid or enforceable provision.

14.7 Headings. The numbering and titles of the various sections are for convenience and reference only and do not affect the scope, meaning, intention or interpretation of the provisions of these Consultancy Terms and Conditions, nor will such headings have any legal effect in any other way.

14.8 Integration. The present Consultancy Terms and Conditions contain the complete agreement of will between the Parties on the subject matter included therein and supersede and replace all prior and simultaneous agreements, understandings and discussions between the Parties with respect to the subject matter of the Quote and these Consultancy Terms and Conditions. This agreement concerning the Quote includes the Quote, these Consultancy Terms and Conditions and the Annexe mentioned below.

In the event of a conflict between the Quote and these Consultancy Terms and Conditions or any other document referred to, the conditions set out in the Quote shall take precedence.

By signing the Quote, the Parties have agreed to all terms and conditions of the Quote and these Consultancy Terms and Conditions, as they come into effect on the date on which the Customer expressly accepts the Service Provider's Quote or on the date specifically stated on the Quote, and each person acting as the representative of a Party declares that he has full authority to accept the Quote and to bind his respective Party to all terms and conditions stated therein and all other documents referred to.

14.9 Contact details. All notifications in connection with these Consultancy Terms and Conditions must be made in writing by e-mail with acknowledgement of receipt or by registered letter to the following address, unless a change of address is notified in writing:

KAN Creative Consultants nv  
Mechelsesteenweg 271/6.1  
2018 Antwerp  
Belgium  
hello@kandesign.com

## ANNEX A: DATA PROCESSING ADDENDUM (“DPA”)

### 1. CONSULTANCY, PROCESSING & PARTIES

When providing the Services, the Service Provider must proceed to process certain personal data under the responsibility of the Customer. The Customer remains at all times responsible for this processing. This DPA regulates the way in which the Service Provider as a “processor” deals with the personal data provided by the Customer, and forms an integral part of the Consultancy Terms and Conditions. The Processing relates to personal data of employees, customers and suppliers of the Customer. These may include the following data: identification, gender, physical, electronic and telephone contact data, professional data, login data, user group, visual material, billing and delivery data, surfing history and IP address. As far as other personal data have to be processed, the Customer will report this to the Service Provider. The Customer himself/herself is responsible for compliance with all applicable privacy Laws.

If the Service Provider observes that Customer violates the above mentioned conditions, or receives a complaint about this, the Service Provider may intervene to end the violation, without prior notice.

The Service Provider can recover the damage as a result of violations of this DPA from the Customer. The Customer indemnifies the Service Provider from all claims of third parties concerning damage as a result of a violation of this DPA, the applicable laws or other documents referred to.

Purpose of processing is defined as: provision of services and customer support, general product, service and network management, and marketing & sales activities (own products).

### 2. APPLICATION & DEFINITIONS

The processing of personal data and the application of these Processing Regulations are governed by the privacy laws (General Data Protection Regulation 2016/679, the Personal Data Protection Act of 30/7/2018, the ePrivacy Directive 2002/58/EC and any other relevant applicable legislation). The terminology used here has the meaning defined in the aforementioned privacy legislation.

### 3. OBLIGATIONS OF THE SERVICE PROVIDER

All processing carried out by the Service Provider is strictly limited to processing inherent in the provision of the Services. The Service Provider limits itself to storing and making it available to the Customer; the Service Provider is a purely technical intermediary.

The Service Provider will not edit or remove personal details, nor disclose them to third parties, except in as far as the Customer requests it or the Service Provider would be obliged to do so by law, administrative or court order. The Service Provider will inform the Customer as soon as possible in such cases; except when this in itself would be forbidden.

### 4. SUB-PROCESSORS

The Customer explicitly agrees that the Service Provider makes use of Sub-processors. In this

sense the Service Provider notes that it makes use of KAN Communication Design cv, Mechelsesteenweg 271/6.1, 2018 Antwerp (Belgium), BE 0896.136.874 pursuant to the execution of the Quote and the provision of Services.

The Service Provider will inform the Customer of any other sub-processors.

## **5. TRANSFERS OUTSIDE EU/EEA**

The Service Provider will not transfer personal data to countries outside the EU/EEA without the prior written consent of the Customer. In this case, the Service Provider will use the standard contractual clauses based on the European Commission Decision of 4 June 2021 on standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC.

## **6. CONFIDENTIALITY**

The Service Provider retains the confidential nature of the data in accordance with the applicable Privacy legislation and takes all reasonable measures to ensure that only the Co-workers of the Service Provider and of the Sub-processors who must have access to the personal data are given access to it and only to the extent that this is necessary for the provision of the service. The Service Provider also ensures that the Co-workers are reliable and contractually bound to secrecy. The Service Provider has carried out all appropriate technical and organizational measures, as described in point 13, to guarantee the security of the personal data and the processing in accordance with the law. Personal data should be protected against accidental or unauthorized access, alteration, destruction, damage, corruption or loss as well as against any other unauthorized or unlawful processing or disclosure ("Data breach").

## **7. ASSISTANCE**

The Parties will provide assistance and cooperation to each other as may reasonably be required to meet requests for information from supervisory authorities or data subjects. This information may relate to the Service Provider's processing policy or to the technical and organizational measures implemented internally by the Service Provider.

The parties will keep each other informed to the extent necessary and without undue delay of any request, complaint, notification or other communication relating to the processing operations pursuant to the execution of the Quote and the provision of Services.

The Service Provider will assist the Customer in providing information or a copy of the personal data to the Customer, to those involved, authorities or third parties, as may be requested by the Customer. This service may be subject to additional fees. Where this is necessary, useful and relevant, the Service Provider can also assist the Customer in complying with requests of those involved.

## **8. DATA BREACH**

To the extent relevant, the Parties shall immediately inform each other in writing and by telephone if they become aware of a Data breach and shall provide each other as soon as possible with full information concerning the Data breach, including but not limited to the nature of the Data breach and the personal data affected, the categories and number of data subjects, the number of data

logs involved, the measures taken to deal with the Data breach, the possible consequences and adverse impact of the Data breach and any other information that the other Party must provide to the relevant Data Protection Authority or to the data subject. The Parties must keep a log of the Data breach, indicating the facts, the consequences and the corrective measures taken.

## **9. AMENDMENTS**

Before a new or updated type of processing is accepted, the Service Provider will inform the Customer of this. At the request of the Customer, the Service Provider may participate in a privacy impact assessment with regard to the proposed new or updated type of processing.

## **10. TERMINATION**

After termination of the processing of the personal data or earlier at the request of the Customer, the Service Provider will stop all use of personal data and, at the request of the Customer, irrevocably remove, destroy or transfer (in a mutually agreed form and in a mutually agreed manner) all personal data and copies thereof which are stored as well as all processing products which were produced with these personal data to the Customer (or a third party designated by the Customer).

## **11. NO TRANSFER OF RIGHTS**

The Service Provider does not acquire any rights (including rights of retention) to the personal data processed pursuant to the Quote and the Consultancy Terms and Conditions.

## **12. DURATION & OPERATION**

The present DPA enters into force as of the acceptance of the Quote by the Client and remains in force after the termination of the execution of the Quote, during the period in which the Service Provider still has access to the personal data which are the subject of the Quote and the Consultancy Terms and Conditions.

During this period, this DPA can only be terminated by mutual agreement between the Parties.

## **13. SECURITY MEASURES**

Description of the technical and organizational security measures implemented by the Service Provider:

The Service Provider must implement the measures described in this paragraph 13, provided that the measures contribute or may contribute directly or indirectly to the protection of personal data pursuant to the Quote and the Consultancy Terms and Conditions concluded between the Parties concerning data processing. If the Service Provider considers that a measure is not necessary for the order in question, he must justify it and conclude terms and conditions with the Customer on the basis of an individual case.

The technical and organizational measures are subject to technical progress and development. In this context, the Service Provider may carry out alternative appropriate measures. The level of security must be in line with best practice in the sector and must not be lower than the measures set out therein. All changes must be documented and agreed with the Customer. In cases of doubt, the

Service Provider must prove that the alternative measures aim at the same protection and provide a comparable level of protection.

The Service Provider has taken the following security measures:

1. Physical access control preventing unauthorized persons from gaining access to the data processing equipment with which the personal data are processed or used.
2. Logical access control where the logical access to the systems is secured by adequate authentication systems and restricted to those persons who need to have access.
3. Compartmentalized access, whereby only persons authorized to use data processing systems are granted exclusive access to the data, in accordance with their access authorization.
4. Availability check, protecting all personal data against accidental destruction or loss.
5. Retention and deletion of data, whereby personal data will only be retained for as long as necessary and will be deleted when the processing is completed.