

**GENERAL TERMS AND CONDITIONS OF ORGANIC VECTORY FOR TIME HIRE SERVICES, CONSULTANCY SERVICES AND SOFTWARE DEVELOPMENT SERVICES.**

**GENERAL CONDITIONS**

**1. Definitions**

1. **"Acceptance Test Procedures (ATP)"** the objective measures (including procedures for making such measurements) of successful completion by Organic Vectory of a task (including of a Milestone or Deliverable) or engagement, or a portion thereof, that are set forth in the Agreement.
2. **"Agreement"** means the agreement with Customer for the provision of Services by Organic Vectory.
3. **"Confidential Information"** means any information disclosed previously or in the future by either party to the other party, either directly or indirectly, in writing, orally or by drawings or observation of tangible objects such as documents, prototypes, samples, products and facilities, including, but not limited to, trade secrets, know-how and other intellectual property, licenses, research and development information, product plans, products, services, suppliers, customer lists and customer information, account records and information relating to the disclosing party's customers, suppliers, personnel and agents, prices and costs, markets, developments, inventions, notebooks, processes, formulas, technology, designs, drawings, specifications, computer programs, software code, engineering or hardware configuration information, results of performance or capacity statistics or any benchmark tests performed on the disclosing party's products, marketing and promotional materials, budgets, books, ledgers, files, correspondence, business or financial records of every kind and nature, or all other information related to the disclosing party that is disclosed or made available to the receiving party.
4. **"Customer"** means the natural or legal person that signs the Agreement with Organic Vectory.
5. **"Deliverables"** means all deliverables, specified in the Agreement.

6. **"Intellectual Property Rights"** or **"IPR"** means all patents (including reissues, divisions, continuations and extensions thereof), patent registrations, utility models, trademarks, trade names, trade secrets, registered and unregistered designs including mask works, copyrights, moral rights and any other form of protection afforded by law to inventions, models, designs, software or technical information, and applications therefore or which otherwise arises or is enforceable under the laws of any jurisdiction or any bi-lateral or multi-lateral treaty regime.
  
7. **"Milestone(s)"** means one or more phases of the Services, as specified in the Agreement.
  
8. **"Party"** means a party to the Agreement.
  
9. **"Services"** mean time hire services, consultancy services and software development services.
  
10. **"Specifications"** means the design, functional, technical and other requirements for a Deliverable which are supplied and/or approved by Customer and which are set forth in the Agreement. Specifications may be amended from time to time by amendments in the form of written change orders agreed to by the Parties.

## **2. Applicability**

1. These terms and conditions (the "Terms") shall apply to all offers made by Organic Vectory and every Agreement concluded with Organic Vectory. Modifications, amendments and supplements to the Terms and/or an Agreement, shall only be binding, if agreed upon in writing by authorized representatives of the parties to the Agreement.
2. If any provision of the Terms or the Agreement shall be found by any court to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties shall agree in good faith an amendment to such invalid or unenforceable provision to make it valid and legal, reflecting as much as possible the parties' original intent.

## **3. Term**

1. The Agreement shall be effective for a period of three (3) years, unless agreed otherwise in the Agreement.
2. The Agreement shall automatically renew for successive periods of three (3) years unless either Party provides the other with written notice of its intent not to renew not less than sixty (60) days prior to the expiration of the then applicable period.

#### **4. Additional work**

1. If Customer wants Organic Vectory to provide work and performances which in the opinion of Organic Vectory are not within the scope of the Agreement, Customer will pay a charge according to the rates that then apply. Organic Vectory shall notify Customer in writing of the requested work and the proposed price. Customer accepts that in case of additional work the delivery times and the responsibilities of Organic Vectory and Customer may be influenced by the size of the additional work.
2. Organic Vectory shall not begin the performance of any additional work without prior written consent of Customer.

#### **5. Assistance Customer**

1. Customer will inform Organic Vectory fully and in time of the intended objectives of Customer in relation to this Agreement, the concerned business parts of Customer in relation to the Agreement, the concerned business processes and data flows and all other facts and circumstances that Customer knows of or should know of that are of importance to the Agreement.
2. Customer will timely provide Organic Vectory any assistance reasonably necessary for a proper implementation of the Agreement. In case Organic Vectory has to work on Customers location, Customer will provide free of charge any reasonable required facilities, such as workspace, user facilities in relation to Customers computer and telecommunication facilities.
3. If Customer does not provide the necessary cooperation as agreed upon this Agreement, Organic Vectory shall have the right to suspend the performance under this Agreement and claim the cost occurred during the non-cooperation.

## **6. Cooperation**

1. Parties agree that cooperation and good communication between Parties is of great importance for a successful execution of the Agreement.
2. None of the Parties will replace any of its employees under this Agreement without written approval of the other Party unless:
  - a) The employee resigns;
  - b) The employee is dismissed;
  - c) The employee is not capable in any way to work.
3. In case an employee has to be replaced, it will be replaced by an employee with the same qualifications.

## **7. Third Parties**

1. Unless Parties agree otherwise in writing Organic Vectory has the right to use a third party to perform the services under this Agreement. Without prejudice to article 11 (Force Majeure) of this Agreement, Organic Vectory remains responsible for the performance of the Agreement.
2. Unless Parties agreed otherwise in writing Customer consents with Organic Vectory to transfer the legal relationship from this Agreement to a third party that is related/ affiliated to Organic Vectory in any way or has taken over the business activities of Organic Vectory.

## **8. Delivery**

1. Organic Vectory shall use its best efforts to comply with the agreed delivery times. However, these delivery times are not binding and Organic Vectory shall not be liable for any direct or indirect damage in the event it is not able to meet the delivery times.
2. Agreed deadlines are based on the at the time of the conclusion of the Agreement applicable terms and conditions and the to Organic Vectory known data.

## 9. Prices and payment

1. All prices shall be in Euros (€) exclusive of VAT and other levies imposed by the government.
2. Organic Vectory is entitled to charge its fees and expenses made for the execution of the agreement to Customer on a monthly base. Customer shall pay invoices within fourteen (14) days after the invoice date. Customer shall not be entitled to set off or to suspend a payment.
3. If the Customer does not pay the amounts owed in a timely manner, the Customer shall owe legal interest on the outstanding amount, without any written demand or notice of default being necessary. If the Customer still does not pay the claim after a written demand or notice of default, Organic Vectory can pass on the claim for collection, in which case the Customer shall, in addition to the total amount owed then, be obliged to pay for all in-court and out-of-court expenses.

## 10. Suspension

Organic Vectory can suspend its performance if Customer does not comply to one or more of its obligations under this Agreement or if Organic Vectory has reasonable belief that Customer is not capable to fulfill its obligations under this Agreement except if suspension is not possible because of applicable mandatory provisions.

## 11. Confidentiality and non-solicitation

1. The Party receiving the Confidential information shall only use it for the purpose for which it has been provided. Information shall in any event be considered confidential if it is designated and conspicuously labelled by either of the Parties as such.
2. During the term of the Agreement and for one year after it is terminated, each of the Parties shall not, unless it receives prior written permission from the other

Party, take on employees of the Other Party who are or were involved in executing the Agreement or otherwise have these employees work for them, directly or indirectly.

3. In case Customer violates any obligations under section 11.1. and 11.2. of this article, Customer forfeits an immediate due penalty of € 50 000,- plus a penalty of € 10 000,- for each day that Customer remains in violation without prejudice to the right of Organic Vectory to recover full compensation.

## **12. Intellectual Property**

Each Party shall own all Intellectual Property Rights owned by it at the Effective Date ("Existing IPR"). Intellectual Property Rights developed under this Agreement during the Services are regulated in the special terms and conditions (annex 1 to 3).

## **13. Force Majeure**

1. Neither Party shall be liable to the other Party for any failure or delay to perform its obligations under the Agreement, other than any obligation to pay money, to the extent that such failure is caused by any event beyond the reasonable control of the relevant Party, including without limitation acts of God, outbreak of hostilities, riot, civil disobedience, acts of terrorism, plague, fire, explosion, flood, the act of any government or authority including revocation of any license or consent, strikes, facilities shutdowns, the inability to obtain necessary labour and failure of electronic communication systems (each a "Force Majeure Event").
2. If either Party is affected by a Force Majeure Event, it shall promptly notify the other Party in writing of the nature and extent of the circumstances in question.
3. Should any Force Majeure Event prevent either Party from performing any of its obligations hereunder for more than thirty (30) days, the other party shall have the right to wholly or partially terminate the Agreement with immediate effect by written notice.

#### **14. Warranties**

1. Organic Vectory warrants that it will use its reasonable commercial efforts to perform the Services in a professional and workmanlike manner consistent with industry standards applicable to the performance thereof. [Customer's sole remedy for breach of the foregoing warranty shall be Organic Vectory's re-performance of the Services.] Annex 1 to 3 contain specific warranties for specific services.

#### **15. Indemnification, Liability**

1. Subject to the Agreement, each Party agrees to indemnify the other indemnified against all claims, actions, demands, damage, liability or loss, costs and expenses (including reasonable attorney's fees and costs and any legal or other expenses incurred by any of them in investigating or defending any actions or threatened action) incurred or suffered by the other Party by reason of, or in any way connected with, a breach of the Agreement by the first party or any act or omission of the first Party.
2. Except for death or bodily injury resulting from Organic Vectory's negligence, the liability of Organic Vectory to Customer or any third party arising from this agreement, however caused, and on any theory of liability, including contract, strict liability, negligence or other tort, shall, per contract year, not exceed the aggregate of the fees paid to Organic Vectory under the order form from which the liability arose in such contract year.
3. In no event will Organic Vectory be liable for any indirect, incidental, special or consequential damages, including damages for loss of profits or revenue, data or data use, even if advised of the possibility of such damages. These limitations will apply notwithstanding the failure of the essential purpose of any remedy.



**16. Termination**

A Party may terminate this Agreement upon thirty (30) days prior written notice, in the event the other Party breaches any material term or condition of this Agreement, provided, however, that during such notice period, the party in default may cure its default and thereby abate the termination; provided, further, that if such default shall require a longer period to remedy, as long as the party in default has taken reasonable steps within such period to commence the curing of the default, the termination shall be abated, as long as such steps continue to be taken. If the Customer is in default hereunder, Organic Vectory may suspend all Work during such cure period without liability to the Customer.

**17. Governing Law and jurisdiction**

All Agreements between Organic Vectory and the Customer are governed by Dutch law. The court that has the exclusive power to hear and decide any dispute between Organic Vectory and the Customer will be the court in 's-Hertogenbosch, the Netherlands.