

Terms and Conditions – SpectrumConsult, September 2012

(Non verbatim English translation – for informative purposes only)

1. Definitions

- (a) SpectrumConsult - the providing entity, based in Woerden, the Netherlands
- (b) Customer – any business entity that enters in to a business arrangement with SpectrumConsult under which SpectrumConsult provides services or specific deliverables according to a Contract
- (c) Contract – a document defining an agreement between SpectrumConsult and Customer concerning deliverables, timescales, fees and other arrangements not covered by these Terms and Conditions.

2. General Terms and Conditions

- (a) The parties to these terms are independent contractors. Neither party has the authority to bind the other or incur any obligation on behalf of the other.
- (b) Neither party may assign any of its rights pertaining to the deliverables under a Contract to any third party without the other party's prior written consent.
- (c) These terms shall be governed by the laws of the law of the Netherlands, without giving effect to the principles of conflicts of law and that body of law applicable to choice of law.
- (d) Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of any cause beyond the reasonable control of such party.
- (e) Neither party's right to require performance of the other party's obligations hereunder shall be affected by any previous waiver, forbearance or course of dealing, unless or only to the extent of any waiver given in writing. Failure or delay by either party to exercise any of its rights, powers or remedies hereunder shall not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy shall not prevent its subsequent exercise or the exercise of any other right, power or remedy.
- (f) These Terms and Conditions, together with a signed Contract that references them constitutes the entire agreement between the parties pertaining to the subject matter described in the signed Contract, and supersedes all oral or written prior statements, representations, discussions, and negotiations.
- (g) No provisions in any other business forms employed by or on behalf of either party in connection with the matters contemplated by the signed Contract will modify the terms hereof, and no supplement or amendment of the signed Contract shall be binding, unless executed in writing by both parties and specifically referencing the supplementing or amendment of the signed agreement.

- (h) Any provision of the signed Contract or these Terms and Conditions found to be illegal or unenforceable shall be deemed severed, and the balance of the signed agreement and these terms shall remain in full force and effect.
- (i) The parties' execution of a Contract that references these Terms and Conditions shall constitute agreement to these terms and conditions.

3. Ownership and rights

- (a) Customer agrees that all intellectual property rights, including all copyrights, patents, trademarks, and pertaining to or included in any services or deliverables provided by SpectrumConsult are solely the property of SpectrumConsult.
- (b) Any confidential or proprietary information relating to or included in the Services or deliverables shall be deemed SpectrumConsult's confidential information, which shall not be disclosed to any third party. Customer may not remove, alter or obscure any copyright or other proprietary rights notices marked on any part of the deliverables.
- (c) Commencing at the time SpectrumConsult receives full and final payment for the Services or deliverables, SpectrumConsult grants to Customer a non-exclusive, non-transferable license to internally use the deliverables.
- (d) If Customer participates in the creation or development of any deliverables, the assignment of all rights including any and all intellectual property rights to the deliverables, shall be to SpectrumConsult unless defined otherwise in the Agreement between SpectrumConsult and Customer.

4. SpectrumConsult's Obligations

- (a) SpectrumConsult shall provide its services and deliverables as defined in a Contract with the utmost care and to the best of its abilities; this extends to any third party that SpectrumConsult may engage to assist in the completion of the work under the Contract.
- (b) SpectrumConsult shall, to the best of its knowledge, identify all information it needs to complete the services and deliverables under the Contract.
- (c) SpectrumConsult shall make every effort to complete the agreed services and deliverables in the time frames defined in the Contract.
- (d) SpectrumConsult shall immediately inform the Customer when confronted with conditions or situations outside its control which prevent the timely completion of the services and deliverables under the Contract.
- (e) Any confidential or proprietary information necessary for the work covered by the Contract and owned and provided by Customer shall be deemed Customer's confidential information. It shall not be disclosed by SpectrumConsult to any other party unless Customer has agreed in writing to such a disclosure.

5. Customer's Obligations

- (a) Customer shall, to the best of its knowledge, identify and/or provide all information necessary for SpectrumConsult to timely complete the services and deliverables under the Contract. Failure to meet this obligation is sufficient reason to terminate or adjust the Contract.
- (b) Any confidential or proprietary information provided by SpectrumConsult to Customer during the preparation of the Contract or the execution of the Contract but not covered by the Article 3 above, shall be deemed SpectrumConsult's confidential information. It shall not be disclosed by Customer to any other party unless SpectrumConsult has agreed in writing to such a disclosure.
- (c) Customer shall pay SpectrumConsult the fees for the services and deliverables in the amounts set forth in the signed Contract.

6. Limitation of Liability

- (a) SpectrumConsult shall not be liable to Customer, or any other person or any entity under any circumstance, for any loss of revenue or profit, loss of use or damage or any other commercial or economic loss or damages resulting from the use of public information or information provided by or on behalf of the Customer in completion of the services or deliverables under the Contract.
- (b) SpectrumConsult shall not be liable to Customer, or any other person or any entity under any circumstance, for any loss of revenue or profit, loss of use or damage or any other commercial or economic loss or damages resulting from analysis, predictions or recommendations requested by the Customer under the Contract or separate thereof.
- (c) In case SpectrumConsult is deemed to be liable for any loss or damages, these shall be limited to any costs incurred in order to assess the extent of the loss or damages and to the cost of correcting the cause of the loss or damages, provided the Customer can demonstrate that this cost has reduced the actual costs or damages.
- (d) In case SpectrumConsult is deemed to be liable for any loss or damages, the extent the loss and damages shall not exceed twice the value of the fees under the Contract or that part of the Contract related to the loss or damages.

7. Assignment

No party may assign or otherwise transfer a Contract without the prior express written consent of the other, except that SpectrumConsult may assign any of its rights or obligations hereunder to any successor to its business. Neither party will directly or indirectly assign or transfer to a third party any Claim against the other party arising out of the Contract.

8. Indemnification

The Customer shall indemnify and hold harmless SpectrumConsult for all losses incurred in connection with any third party claim, except to the extent resulted primarily from the wilful misconduct or comparable instance of gross negligence on the part of SpectrumConsult.

9. Applicable Law and Venue

- (a) The Contract, including all matters relating to it, shall be governed by, and construed in accordance with, the laws of The Netherlands (without giving effect to the choice of law principles thereof). The Vienna Sales Convention of 1980 shall not apply.
- (b) The parties agree to attempt in good faith to resolve any dispute or claim arising out of or in connection with the Contract promptly through negotiations between senior management.
- (c) Any action or proceeding arising out of or relating to the Contract or the Services shall be brought before and maintained exclusively in the District Court of Rotterdam, The Netherlands subject to appeal and appeal in cassation under the Netherlands Act on Civil Procedural Law. The parties hereby submit to the exclusive jurisdiction of such court for the purposes of any such action or proceeding.