

Terms and Conditions T.L.R. Technisch Laboratorium Rotterdam B.V.

1. APPLICABILITY

All Services performed by TLR shall be subject to the provisions of the Agreement. These T&Cs shall apply to and form an integral part of any Agreement (including all contractual relations arising therefrom) between Client and TLR for the provision of Services. Any general or special terms and conditions of Client are hereby explicitly rejected and shall not apply to any Agreement or Services even if enclosed with, referred to, or printed on, any (purchase) order, order confirmation, invoice, email or any other document or communication. The Agreement (and these T&Cs) shall prevail over any terms and conditions which are implied by trade, custom, industry practise or course of dealing.

2. DEFINITIONS

The following terms shall have the following meanings:

Affiliate means, in relation to a Party, any company or other entity, whether or not a legal person, which directly or indirectly controls, is controlled by or is under joint control with that Party, where 'control' of a company or entity means: (a) the direct or indirect ownership of fifty percent (50%) or more of the capital of that company or entity, or (b) in the absence of such ownership interest, the substantial power to direct or cause the direction of the management and set the policies of that company or entity.

Agreement means the agreement between TLR and Client for the provision of the Services, consisting of Client's order as accepted by TLR, including these T&Cs and any documents referenced therein.

Claim any and all claims, demands, causes of action, suits, proceedings, remedies, fines, penalties, taxes, losses, judgments, liens, liabilities, indemnities, costs, awards, damages (including any punitive and/or exemplary damages) or expenses of any kind and character (including reasonable attorney's fees and other legal-related expenses).

Client means the entity set out in the order with TLR for any of the Services and who therefore enters into the Agreement with TLR.

Client Material means any and all information, documentation, samples, feedback, input, data or records (including Confidential Information) of, from or related to Client and/or its Affiliates, which TLR and/or its Representatives considers necessary or relevant for the performance of its obligations under the Agreement.

Confidential Information means all information (including Personal Data) of whatever nature, however conveyed, in whatever form (including in writing, orally by demonstration, electronically and in a tangible, visual or machine-readable medium) and irrespective of whether the information is marked confidential or not, which is provided by the Discloser to the Recipient pursuant to or in initiation of the Agreement (a) relating to financial, tax or accounting, business operations and processes, product compositions, relationships with business affairs, customers, clients, suppliers, employees and prospects, market opportunities, marketing strategies and techniques, business strategies, business plans, IPR, trade secrets, know-how; (b) that is clearly designated as being confidential or equivalent; and (c) derived from the information referenced under (a) and (b); or (d) all other data which should reasonably be assumed as being confidential.

TLR means T.L.R. Technisch Laboratorium Rotterdam B.V. (trade register number: 24130490).

Data Protection Laws means: (i) Regulation (EU) 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 (i.e. the General Data Protection Regulation), and (ii) all other applicable law about the Processing of Personal Data and privacy.

Discloser means a Party and/or their Representatives disclosing Confidential Information to Recipient under the Agreement.

Force Majeure Event means any circumstance beyond a Party's reasonable control which renders a Party unable to (timeously) perform its obligations under the Agreement, which does not result from the fault or negligence of the affected Party and which could not have been avoided by the affected Party through the exercise of proper diligence and includes, without limitation, acts of God, flood, drought, earthquake or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war; armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; nuclear, chemical or biological contamination or sonic boom; any law or action taken by a government, accreditation body or public authority, including without limitation, imposing an export or import restriction, quota or prohibition; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts; and interruption or failure of utility, telecom or internet services, and cyber-attacks or software failures causing significant disruption to the business operations.

Intellectual Property Rights or **IPR** means unpatented inventions; patents; trademarks; service marks; trade names; domain names; copyrights (including rights in computer software); moral rights; rights in designs in any form; database rights; topography rights; utility models; and any other intellectual property rights and licences to such rights; in each case whether registered or unregistered and including all applications (and rights to apply for, and be granted) renewals or extensions of, and rights to claim priority from, these rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

Insolvency Event means: (a) the filing of a petition or the making of an order or the passing of an effective resolution for the winding-up; (b) insolvency or bankruptcy under the provision of any insolvency or bankruptcy law; (c) institution of any proceedings under the provision of any insolvency or bankruptcy law or any law for the relief of debtors, with such proceedings not being withdrawn or canceled within a period of thirty (30) days after institution thereof; or (d) the appointment of a receiver of the undertaking or property.

Party means individually TLR or Client as the context requires and **Parties** means collectively TLR and Client.

Recipient means a Party and/or its Representatives receiving Confidential Information under the Agreement.

Report means a report and/or certificate issued or made available to Client by TLR setting out the analyses results or any other result(s) deriving from the Services performed by TLR.

Representatives means, in relation to a Party, such Party's Affiliates and/or the directors, officers, employees, agents and advisors of such Party and/or its Affiliates, and in case of TLR, this shall also include any subcontractor engaged by TLR to perform the Services (or any part thereof) and the directors, officers, employees, agents and advisors of such subcontractor.

Price List means the document issued by TLR to the Client, usually prior to the first order and thereafter periodically (in TLR's discretion), setting the prices for each Service. A reference to the Price List, is a reference to the latest price list issued by TLR to the Client.

Services means the services (which may include any of the following activities: laboratory analytical services, laboratory supporting services and related services, including but not limited to, sampling) to be undertaken by TLR pursuant to the Agreement.

T&Cs means these general terms and conditions for laboratory services.

3. PLACEMENT OF ORDERS & ACCEPTANCE

3.1 Client will send orders by mail or other electronic message or by using TLR's sample dispatch sheets or electronic order forms or via the client portal on TLR's website.
3.2 Client must confirm in writing orders given by telephone immediately after they are made. Such orders will be deemed to have been placed if Client sends a sample to TLR.

3.3 The Agreement come into force upon when TLR accepts an order that has been placed by Client. Each order accepted by TLR will be treated as a separate agreement between TLR and Client.

3.4 An order will be deemed accepted by TLR: (a) TLR proceeds to fulfil that order or processes a sample sent by Client to TLR, without need for any written confirmation from TLR; or (b) TLR accepts the order in writing. Any deviations to the T&Cs shall only apply when they are expressly denoted in the order, as accepted by TLR, in which case such deviations shall take precedence.

4. PERFORMANCE OF THE SERVICES

- 4.1. TLR will perform the Services with due skill and care in accordance with Client's specific instructions to the extent such instructions are accepted by TLR, or in the absence of such instructions, in accordance with such methods as TLR may consider appropriate based on custom practice and/or on technical, operational and/or financial grounds.
- 4.2. TLR will determine which of its Representatives will perform the Services. TLR may, in its sole discretion, subcontract the performance of the Services (whether in whole or in part) without prior notice to, or approval from, Client. TLR shall remain responsible and liable to Client for the performance of any such subcontracted Services as if these were performed by TLR.
- 4.3. TLR shall make commercially reasonable efforts to meet its estimated delivery dates, performance times and turnaround times (if any). However, any estimated dates and/or times do not constitute a commitment by TLR, unless this has been expressly agreed between the Parties in writing. Under no circumstances may Client suspend or terminate the Agreement or any order; or impose any form of damages on account of a failure to meet any estimated dates and/or times.
- 4.4. Any of TLR's software is made available on an 'as is', 'where is' basis without any warranty of any kind. TLR may adjust the content and scope of the software at any time and temporarily put all or part of the software out of service for maintenance and/or other forms of service.
- 4.5. If TLR has not expressly been mandated and paid by Client for the definition of the sampling plan (including which samples of which raw materials and finished products and at which frequency should be analysed) and the definition of the precise range of analysis to be performed or if the Client has not followed TLR's recommendations, TLR shall not bear any responsibility if the sampling plan and/or the range of analysis to be performed prove to be insufficient or inappropriate.
- 4.6. The Services are performed within the limits of the scope set forth in the Agreement. If, following a request or with the prior consent of Client, TLR performs any services outside the content or the scope of Services as set forth in the Agreement, such services shall be governed by the Agreement and Client will reimburse TLR for such services in accordance with clause 7.1.
- 4.7. By entering into the Agreement or performing the Services, TLR and its Representatives do not take the place of Client, its Representatives or any third party and do not abridge, abrogate, release, or (undertake to) discharge any duties or obligations of Client, its Representatives or any third party.
- 4.8. TLR acts only for Client. The Reports and/or analysis results are exclusively for the use and benefit of Client and are not to be (publicly) disclosed or used and/or exploited by any third party without the prior written consent of TLR. TLR shall under no circumstances be responsible or liable for any consequences resulting or arising from (a) the disclosure of such Reports and/or results; (b) the use and/or exploitation of such Reports and/or results by any third party; or (c) any reliance on such Reports and/or results by a third party, and Client shall indemnify TLR and its Representatives against any Claims that are asserted against, or incurred, sustained or suffered by TLR or any of its Representatives that allege or are based on clause 4.8 (a) up to and including 4.8 (c).
- 4.9. Reliance on the Reports is limited to the facts and statements contained therein, which represent the results stemming from the samples analysed by TLR at the time the sample was analysed.
- 4.10. TLR makes no guarantee, whether express or implied, that the analysis results provided by TLR will meet or satisfy the (acceptance) criteria and/or any detection limits set out by Client, a third party, governmental authority or prescribed by law, contract or an accreditation or certification standard whatsoever, and TLR does not accept responsibility for any failure to meet or satisfy any such criteria or limits.
- 4.11. Each Report and the analysis results contained therein relate exclusively to the sample analysed/examined by TLR. Reports and/or analysis results do not express any opinion on the bulk from which the samples have been taken or drawn, unless the samples were directly taken and drawn by TLR as part of the scope of Services set out in the Agreement.
- 4.12. TLR will use commercially reasonable care in handling and storing the samples, but TLR shall not be held responsible for any loss, damage or destruction of samples even after their receipt at TLR's laboratory.
- 4.13. All samples or other materials to be tested by TLR must be in sound condition making it possible for TLR to prepare, process and analyse under normal conditions. TLR is entitled to conduct an initial examination of the samples or other materials to check their condition before processing the samples. Client shall bear the costs of this initial examination, if the samples or materials do not comply with the requirements described in this clause 4.13. If the result of the initial examination is that an analysis is impossible or is possible only under more difficult conditions than originally anticipated (for example, because the samples or materials have been interspersed with foreign materials or substances that were not reported by Client or are degraded) TLR shall be entitled to terminate or suspend the Agreement without any liability; and Client shall bear all the costs incurred by TLR to that point.
- 4.14. TLR may dispose of or destroy samples immediately after the analysis has been performed, unless (a) custom practice requires TLR to retain such sample for a period of time and a maximum period of two (2) months; or (b) TLR and Client have agreed in writing that TLR will retain the for a certain period of time. TLR may dispose of or destroy the samples after expiration of the retention period, without further notice to Client. If the customer requests the return of samples which were not required by TLR, TLR will return them to Client, at Client's cost and risk.
- 4.15. In case TLR is required by law or any governmental or other regulatory authority to disclose Client Material, analysis results or the Report or any part thereof, it may do so, without having to first inform the Client of such disclosure and without liability of any kind.
- 4.16. TLR may retain Client Material in its archives for the period as set out by its internal retention policy and/or prescribed by applicable law. If any settlement negotiation, Claim, litigation or other action involving Client Material has commenced prior the expiration of the retention period, the Client Material shall be retained until completion of the action and resolution of all issues which arise from it and until any settlement negotiation, Claim, litigation or other action involving Client Material has been closed and fully resolved. If and to the extent possible, TLR shall return or destroy, at its discretion, all Client Material at the end of the retention period.

5. CLIENT'S OBLIGATIONS

- 5.1. Client acknowledges that: (a) neither TLR nor any of its Representatives fulfils the role of an insurer or guarantor in respect of the adequacy, quality, merchantability, fitness for purpose, compliance or performance of the product or material from which the sample is taken or drawn and are under no obligation to analyse and/or examine or report on any substances or facts that are outside of the scope of the Services; and (b) Reports are non-exhaustive and are not necessarily designed or intended to address all matters of quality, safety or condition of the sample and do not reflect all standards which may apply to the products or materials from which the sample is taken or drawn.
- 5.2. Client shall, at its sole cost and expense: (a) fully and timeously co-operate in all matters relating to the Services; (b) promptly respond to any inquiries made by TLR and any of its Representatives; (c) timeously provide TLR and its Representatives with all Client Material necessary for the performance of the Services; and (d) in so far as TLR is engaged to perform sampling, provide TLR's Representatives with unconditional and unhindered access to the location/point where the samples have to be drawn and to take all necessary actions to eliminate or remedy any circumstances or events that hinder or impede the performance of the Services.
- 5.3. Client is responsible for the correctness and completeness of the order and all Client Material. Client acknowledges that TLR and its Representatives may rely on such order and Client Material without any duty to confirm or verify the accuracy, completeness or authenticity thereof. Client shall be liable for any Claims that are asserted against, or incurred, sustained or suffered by TLR or any of its Representatives that allege or are based on the incorrectness or incompleteness of the order or Client Material.
- 5.4. Client is responsible for the proper delivery and transportation of samples. Unless otherwise specifically agreed in writing by TLR, TLR accepts no responsibility for any loss or damage, which may occur to any sample in transit. Client shall, at all times, be liable for the security, packaging and insurance of the sample from its dispatch until the sample is delivered to TLR's laboratory.
- 5.5. Client represents and warrants to TLR that that all samples sent to TLR are safe and in a stable condition and undertakes to indemnify TLR and its Representatives against any Claims that are asserted against, or incurred, sustained or suffered by TLR or any of its Representatives that allege or are based on any sample not being in a safe or stable condition, notwithstanding that Client may have given an indication on the sample, in the order or otherwise of any perceived problem with the sample.
- 5.6. Client must always inform TLR in writing prior to shipment and label the packaging and/or samples appropriately, if the samples are dangerous or otherwise of a hazardous nature.
- 5.7. Client represents and warrants, that no sample poses any danger, including on its site, during transportation, in the laboratory or otherwise to TLR's premises, property or Representatives. It is Client's sole responsibility to ensure compliance with hazardous waste regulations, including regarding information, transportation and disposal and to inform TLR and its Representatives of any health and safety concerns regarding the samples, including any known or suspected toxic or other contaminant that may be present in the sample and its likely level of contamination as well as the risks to TLR's premises, property and Representatives related to the contamination. The Client shall be responsible for and indemnifies TLR and its Representatives for any Claims that are asserted against, or incurred, sustained or suffered by TLR or any of its Representatives that allege or are based on any breach or non-fulfilment by the Client or the Client's Representatives of this clause 5.7.
- 5.8. Client represents and warrants that it is not procuring the Services for any purposes that are (whether directly or indirectly) prohibited by the sanction rules and regulations of the Netherlands, the European Union, the United Kingdom and the United States of America. Further, it shall not use TLR's Services and or the Reports, in connection with any activities which are prohibited by such rules and regulations (including, without limitation, disclosing the Reports to any person or organisation upon which the Netherlands, the European Union, the United Kingdom and/or the United States, have imposed individual and economic sanctions).
- 5.9. Unless expressly otherwise agreed in writing, Client shall not make any copies of (the contents of) any Report other than for its internal use. Any such copies shall be clearly identified as a copy and shall only be reproduced in their entirety.
- 5.10. TLR shall neither be in breach or default; nor be liable whatsoever if and to the extent that such breach or default is a result of any breach or delay in the performance of Client's obligations and Client shall bear and/or reimburse TLR for all costs resulting from such breach or delay.
- 5.11. Client shall notify TLR (in substantiated detail) of any (alleged) shortcomings in the performance of the Services to the Client in writing no later than fourteen (14) days after the discovery, or after the Client should reasonably have discovered the (alleged) shortcoming. Client shall forfeit all rights, powers and remedies in connection

with a shortcoming of TLR if Client fails to notify TLR accordingly. TLR reserves the right to dispute any (alleged) shortcomings and may require further investigation in respect of the same. In the event of a shortcoming for which it is proven that TLR are responsible, Client shall provide TLR a reasonable period of time to remedy the shortcomings by way of reperformance of the Services which are proven to have a shortcoming. TLR does not owe any damages to Client if it adequately remedies the shortcoming in the performance of the Services.

- 5.12. In the event that Client objects against the analyses results, TLR will only be required to repeat analyses free of charge if all of the following conditions are satisfied: (a) Client has -in substantiated detail- reported its objections regarding analysis results in writing without delay and in no later than fourteen (14) days after the Client receives the analyses results; (b) Client can demonstrate that (alleged) false positive results are a direct result of a shortcoming in the performance of the Services; (c) TLR has a sufficient amount of the original sample on hand; and (d); the results of the repeated analysis do material deviate from those of the first one. If these conditions are not all satisfied, Client will be required to pay all costs, including sampling, transportation, analytical and disposal costs for any repeated analysis.
- 5.13. TLR's obligation in respect of (alleged) shortcomings is as set out in clauses 5.11 and 5.12: (a) Client's sole and exclusive remedy for all claims in relation to any defects and / or shortcomings in respect of the Services; and (b) is in lieu of any and all other provisions, stipulations, conditions or warranties, whether oral, express or implied, including any statutory implied provisions relating to satisfactory quality, freedom of defects, fitness for purpose or reasonable care and skill, arising out of the operation of law or otherwise.

6. INTELLECTUAL PROPERTY

- 6.1. Ownership of any IPR owned by a Party or its Representatives prior to the commencement date of the Agreement, or otherwise created outside of the scope of the Agreement without use of or reference to Discloser's Confidential Information, shall remain vested in such Party or its Representative, as applicable, at all times.
- 6.2. All IPR of TLR in the Services and any tools, methodologies, techniques and document of any nature whatsoever, that TLR uses in the performance of Services and any developments, modifications, or enhancements to such IPR, are and will at all times remain vested in TLR. TLR hereby grants Client the right to use such IPR for the purpose of Client's usage of the Report in a manner which is custom in the industry and subject to the provisions of the Agreement. Client shall not, without the prior written consent of TLR, alter or make any addition or modification to TLR's IPR. Client shall not alter, deface or remove any reference to TLR as being the rightful owner of the Consultant's IPR. If the Client commits a breach of any material term or condition of the Agreement, TLR may withdraw the right of use set forth in this Article.
- 6.3. Client grants to TLR and its Representatives a non-exclusive, royalty-free license to make use of the IPR vested or contained in the Client Material insofar as necessary for the performance of the Services, provided that nothing shall oblige Client or its Representatives to act in breach of any confidentiality obligation owed to a third party.

7. FEES, INVOICING AND PAYMENT

- 7.1. In consideration of TLR performing the Services, Client shall pay TLR the amounts specified or to be calculated in accordance with the Price List or otherwise agreed between the Parties in writing. Requests for urgent analysis may be subject to a surcharge. If a surcharge applies, TLR will inform Client thereof before commencement of the Services.
- 7.2. Client shall bear and/or reimburse TLR for all costs in relation to the shipment, import, export, customs clearance, delivery, retention, disposal and/or return of any samples sent to TLR, including the adequate disposal of hazardous waste resulting from the sample, whether or not described as hazardous waste. In addition, Client shall be responsible for the payment of any transfer fees charged by the bank.
- 7.3. Unless agreed otherwise in writing between TLR and Client, TLR's Price List is valid from 1 January until 31 December. TLR may, in its sole discretion, annually adjust the Price List.
- 7.4. Unless the Agreement contains a different payment term, Client shall pay TLR's invoices within thirty (30) days of the date of the invoice.
- 7.5. If Client disputes the contents of the invoice, details of the objection denoting substantiated reasons must be raised by the Client within fourteen (14) days of receipt of such invoice, otherwise the invoice will be deemed to have been accepted. Any such objections do not exempt Client from its obligation to pay the invoiced amounts by the due date.
- 7.6. All amounts set forth in the Price List or any other quotation whatsoever are exclusive of any value added tax, sales, use or excise tax or similar tax or charge and of any levies or duties imposed (collectively, "Taxes"), which shall be separately included in the invoice and, if applicable, shall be paid in addition to such amounts. Client shall fully indemnify, hold harmless and, upon first written request, defend TLR and its Representatives from and against all Taxes (including penalties, fines and interest thereon) imposed by any competent authority with respect to the Services performed by or on behalf of TLR, insofar as such Taxes are payable by Client or its Representatives.
- 7.7. All amounts due by Client to TLR shall be paid in full without any set-off, counterclaim, deduction or withholding. All payments to be made under the Agreement shall be made without any deduction of any (local or withholding) Taxes, levies, licenses, duties, charges, fees and withholdings of any nature by any governmental authority save as required by law. If Client is compelled to make any such deduction, it will pay to TLR such additional amounts as are necessary to ensure receipt by TLR of the full amount which TLR would have received but for the deduction.
- 7.8. If Client fails to make a payment when due under the Agreement by the due date, then, without limiting any of TLR's rights and remedies, Client shall pay interest on the overdue sum from the due date until payment of the overdue sum is made, whether before or after judgment, in an amount equal to (a) ten percent (10%) per year; or (b) if the Dutch statutory commercial interest rate exceeds ten percent (10%) per year, then such interest rate. In addition, Client shall promptly pay to TLR and/or CU's Representatives the amount of all reasonable costs and expenses (including legal fees) incurred by TLR and/or TLR's Representative in connection with (a) any effort on the part of TLR and/or TLR's Representatives to collect any late payments by Client and/or (b) the enforcement of, or the preservation of any rights under, the Agreement generally and any proceedings instituted by or against TLR and/or TLR's Representatives as a consequence of such enforcement or preservation efforts.
- 7.9. Unless expressly otherwise agreed in the Agreement, invoices can be sent via e-mail. Such invoices shall be deemed originals, delivered to Client upon its receipt of such e-mail.

8. LIABILITY AND INDEMNITY

- 8.1. The total liability of TLR and its Representatives for any and all Claims shall not exceed: (a) an amount equal to ten (10) times the Fees received by TLR (not inclusive of applicable taxes) in respect of (that part of) the Services that gave rise to such Claim; or (b) a cumulative maximum amount of twenty thousand euro (EUR 20,000,-), whichever of (a) or (b) is less.
- 8.2. In no event shall TLR or its Representatives be liable to Client or any third party for any consequential, indirect, incidental, special or exemplary, punitive or enhanced damages (including, without limitation: lost profits, revenues or business opportunities, diminution in value, damage to reputation and/or goodwill arising out of, relating to, or in connection with the Agreement, regardless of: (a) whether such damages were foreseeable; (b) whether or not Client was advised of the possibility of such damages; and (c) of the legal or equitable theory (contract, tort (including negligence) or otherwise) upon which any Claim is based. Further, in no event shall TLR or its Representatives be liable for expenses or consequences of a product recall, including without limitation, expenses of notification and destruction or return of the recalled product and the sum paid for the recalled product.
- 8.3. The limitations and exclusions set forth in this clause 8 shall also apply to the benefit of any Representatives of TLR.
- 8.4. Client shall fully indemnify, hold harmless and, upon first written request, defend TLR and its Representatives from and against any Claims that are asserted against, or incurred, sustained or suffered by these indemnitees arising out of, relating to, or in connection with the Agreement in any way, provided that this shall only apply if and to the extent that the aggregate of such other Claims exceeds the cumulative overall liability set out in clause 8.1 above.
- 8.5. Client shall be prohibited from bringing legal action against TLR or any of its Representatives following the expiry of three (3) months from the day upon which Client became aware, or should reasonably have been aware, of the Claim. In any event, any and all Claims against TLR or any of its Representatives shall be time-barred by the expiration of six (6) months after the event giving rise to such Claim.
- 8.6. Clauses 8.1 up to and including clauses 8.5 and clause 8.9 shall apply irrespective of cause and notwithstanding negligence or breach of duty (whether statutory or otherwise) and irrespective of, whether such claims are based or claimed to be based on negligence (including sole, joint, concurrent or otherwise), breach of any warranty, condition or term (statutory or otherwise), breach of agreement, statute, strict liability or otherwise and irrespective of any claim in tort, under contract or otherwise at law.
- 8.7. Clauses 8.1 up to and including clause 8.6 shall not apply if TLR, its Affiliates or any of the directors or senior managers of TLR or such Affiliates has acted fraudulently or their acts or omissions constitute wilful concealment, wilful intent, gross negligence or wilful recklessness. In addition, nothing in this clause 8 is intended or will limit or exclude any liability to the extent such liability cannot be limited or excluded by mandatory law.
- 8.8. The Fees and the other provisions of the Agreement duly reflect the allocations of risk between the Parties. Client acknowledges that the provisions of this clause 8 form the basis of the fees that TLR charges in respect of the Services and are an essential element of the Agreement.
- 8.9. Each Party will use all reasonable endeavours to mitigate any Claims arising out, relating to or in connection with the Agreement.

9. FORCE MAJEURE

- 9.1. Neither TLR nor Client will be liable for failure to perform or delay in performing obligations under the Agreement which have become practicably impossible because of a Force Majeure Event. Written notice of a party's failure or delay in performance due to a Force Majeure Event must be given to the other party no later than five (5) business days following the Force Majeure Event commencing, which notice shall describe the Force Majeure Event and the actions taken to minimize the impact thereof.

- All delivery dates and turnaround times affected by a Force Majeure Event shall be suspended for the duration of such Force Majeure Event. When feasible, the Services shall not be cancelled but rescheduled and new delivery dates shall be agreed as soon as practicable after the Force Majeure Event ceases to exist.
- 9.2. If circumstances causing the Force Majeure Event cannot be permanently overcome, or they result in a delay extending beyond thirty (30) days, either Party may terminate the Agreement with immediate effect by providing written notice to the other. Upon receipt of such notice by the other Party, the Parties shall be relieved from their further contractual obligations, except for their accrued rights, if any, and the final accounting arising from or relating to the Agreement.
- 10. TERMINATION AND SUSPENSION**
- 10.1. TLR may terminate the Agreement with immediate effect or suspend the performance of its obligations under the Agreement by sending a notice of termination or suspension to Client, if Client: (a) does not pay any amount due under the Agreement on the due date for payment and remains in default not less than seven (7) days after being notified in writing to make such payment; or (b) commits a breach of any other term of the Agreement which breach is incapable of being remedied; or (c) commits a breach of any other term of the Agreement which is capable of remedy and Client subsequently fails to remedy that breach within thirty (30) days after being notified in writing to do so; or (d) becomes the subject of an Insolvency Event.
- 10.2. TLR shall not be liable for any Claims arising out of its suspension or termination of the Agreement pursuant to clause 10.1.
- 10.3. Client may terminate the Agreement with immediate effect by sending a notice of termination to TLR, if TLR: (a) commits a material breach of the Agreement which breach is irremediable; or (b) commits a material breach of the Agreement which is remediable and TLR subsequently fails to remedy that breach within thirty (30) days after being notified in writing to do so; (c) becomes subject to an Insolvency Event.
- 10.4. In the event that TLR terminates this Agreement in accordance with clause 10.1: (a) TLR shall be released from its obligations under the Agreement; and (b) all amounts payable under the Agreement for Services performed prior to the date of termination shall become immediately due and payable by Client; and Client shall reimburse TLR for all documented costs and expenses (to be) incurred by TLR as a result of such termination.
- 10.5. In the event that Client terminates this Agreement in accordance with clause 10.3: (a) all amounts payable under the Agreement for Services performed prior to the date of termination shall be due and payable by Client within fourteen (14) days from the date of termination; and (b) subject to the limitation and exclusions set out in clause 8 and notwithstanding any other provision of the Agreement, TLR shall pay to Client all documented direct costs and expenses (to be) incurred by Client as a direct result of such termination. For the avoidance of doubt, the foregoing shall be Client's sole and exclusive remedy and as full and final satisfaction of all Claims in connection with the termination of the Agreement in accordance with clause 10.3.
- 10.6. The termination or expiration of the Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiration, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiration.
- 11. CONFIDENTIALITY & DATA PROTECTION**
- 11.1. The Recipient shall, and shall ensure that its Representatives shall: (a) keep Discloser's Confidential Information confidential, by applying at least the standard of care that it uses to protect its own Confidential Information and in any case, no less than a reasonable degree of care; and (b) use such Confidential Information only for the purposes of performing its obligations under the Agreement; and (c) except as otherwise specified in the Agreement, not disclose such Confidential Information to any third party without the prior written consent of Discloser.
- 11.2. The Recipient may disclose Discloser's Confidential Information on a "need to know" basis to its and its Affiliates' Representatives, statutory auditors and regulators having regulatory or supervisory authority over their businesses, provided that it shall first inform such parties of the confidential nature of said Confidential Information and it shall ensure that these are bound by obligations of confidence in respect of said Confidential Information no less onerous than those set out in this clause 11.
- 11.3. The provisions of clauses 11.1 and 11.2 shall not apply to any Confidential Information of Discloser that: (a) was already in the possession of Recipient or its Representatives on a non-confidential basis before disclosure thereof by or on behalf of Discloser or its Representatives; or (b) is or becomes public knowledge other than as a result of a breach of this clause 11; or (c) was, is or becomes available to Recipient or its Representatives on a non-confidential basis from a person who, to their knowledge, is not under any obligation restricting its disclosure; or (d) is independently developed by Recipient or its Representatives without use of or reference to the information disclosed by or on behalf of Discloser or its Representatives.
- 11.4. The disclosure of any Confidential Information shall not be construed as granting Recipient or its Representatives any rights, by license or otherwise, to any Confidential Information of Discloser or to any Intellectual Property Rights that have been issued or that may be issued based on such Confidential Information, other than the right to use such Confidential Information for the purpose of performing their obligations under the Agreement.
- 11.5. TLR and its Representatives may, and Client hereby authorizes TLR and its Representatives to, disclose certain Confidential Information to its accreditation body where, in the reasonable opinion of TLR and its Representatives, TLR is obliged or required to do so by the accreditation rules. TLR and its Representatives shall have no liability for any Claims that are asserted against, or incurred, sustained or suffered by Client as a result of the disclosure of Client's Confidential Information to and the use thereof by TLR's accreditation body.
- 11.6. The provisions of this clause shall not prevent that TLR has the perpetual right to use aggregated, anonymized, and statistical data derived from the Services, and nothing herein shall limit TLR from utilizing this data for business and/or operational purposes, provided that TLR does not share with any third party any such data which reveals the identity of Client or Client's Confidential Information.
- 11.7. Each Party shall take, and ensure that its Affiliates shall take, all necessary steps to ensure that it and its Affiliates will at all times operate in accordance with Data Protection Laws.
- 11.8. The Parties acknowledge that for the purposes of the Data Protection Laws, each Party acts as a data controller in relation to the Personal Data exchanged in connection with the Agreement. Each Party will process Personal Data as a data controller for the purposes of performance of this contractual relationship and for legitimate interests.
- 12. MISCELLANEOUS**
- 12.1. If any provision in these T&Cs or the Agreement is or becomes wholly or partly invalid, illegal or unenforceable in any respect, such provision shall be omitted from the Agreement and the remaining provisions shall continue in full force and effect as if the Agreement had been executed without the invalid, illegal or unenforceable provision. If the invalidity, illegality or unenforceability is so fundamental that it prevents the accomplishment of the purposes of the Agreement, the Parties shall make every effort to agree in good faith on a new provision which differs as little as possible from said provision, taking into account the substance and purpose of the Agreement.
- 12.2. The relationship between the Parties is that of independent contractors. The details of the method and manner for performance of the Services shall be under the own control of TLR, Client being interested only in the results thereof. Nothing in the Agreement and no action taken by the Parties under the Agreement shall constitute a partnership, association, joint venture or other co-operative entity between the Parties, nor will any Party become the partner, agent or legal representative of the other Party.
- 12.3. Notwithstanding anything to the contrary contained in these T&Cs, a failure or delay by a Party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy. No waiver of any right or remedy under these T&Cs shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing.
- 12.4. The Agreement contains the entire agreement between the Parties relating to the Services and supersedes all previous agreements, arrangements and understandings, both written and oral, relating thereto.
- 12.5. Each Party shall, at the cost and upon the written request of the other Party, execute and deliver such instruments and documents and take such other actions as reasonably necessary or desirable from time to time in order to give full effect to the Agreement and its obligations thereunder.
- 12.6. Neither the Agreement nor these T&Cs may be amended or changed, except by a written instrument making specific reference to the Agreement or these T&Cs, signed by each of the Parties.
- 12.7. All notices requests, consents, claims, demands, waivers and other communications under the Agreement must be in writing. Email messages are deemed to constitute written notice, unless explicitly agreed otherwise.
- 12.8. Client may not assign, novate or otherwise transfer its rights and obligations under Agreement without the prior written consent of TLR. TLR may by written notice to Client, assign, novate or transfer the Agreement to any of its Affiliates.
- 12.9. The Agreement shall be binding on and inure to the benefit of the Parties and their respective permitted successors and permitted assigns.
- 12.10. For marketing and/or commercial purposes, TLR and its Affiliates may cite their cooperation with Client as a reference, using its name and/or logo, unless Client has objected against such reference within thirty (30) days following the date on which the Agreement comes into effect.
- 12.11. In the event of any inconsistencies between the provisions of these T&Cs and the Agreement, the provisions of the Agreement shall prevail.
- 13. APPLICABLE LAW AND DISPUTE RESOLUTION**
- 13.1. These T&Cs and the Agreement shall be exclusively governed by and construed in accordance with Dutch law. Any matter, dispute or Claim arising out of or in connection with these T&Cs and/or the Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Dutch law.
- 13.2. The Parties irrevocably agree that any dispute, controversy or claim (including any of any noncontractual nature) arising out of or in connection with these T&Cs and/or the Agreement shall be submitted to, and finally adjudicated and settled by, the District Court of Rotterdam, the Netherlands, which shall have exclusive jurisdiction.