



## TERMS AND CONDITIONS OF PURCHASE

### 1. TIME OF PERFORMANCE

- 1.1. The Supplier will fulfil its obligations on the agreed dates and within the agreed periods of time as laid down in the Agreement. These dates and periods of time are strict deadlines.
- 1.2. The Supplier will notify Kotug immediately in writing as soon as the Supplier is unable, or expects to be unable, to fulfil, or fulfil in time, any of its obligations under the Agreement.
- 1.3. If the Supplier fails to fulfil, or fails to fulfil in time, any of its obligations under the Agreement, Kotug will, without prejudice to any other rights Kotug may have, be entitled to have those obligations fulfilled by a third party. In that case, the Supplier will assist Kotug in transferring all necessary information to that third party in order to achieve a smooth transfer.

### 2. JUSTIFIED SUSPENSION

- 2.1. As soon as the Supplier becomes aware of an actual or likely future failure by Kotug to perform any of its obligations under the Agreement which may reasonably be expected to impact the Supplier's performance of its obligations under the Agreement, the Supplier will immediately notify Kotug thereof in writing, indicating the relevant failure by Kotug and the actual or expected impact on the Supplier's performance and its related costs.
- 2.2. Only in the event that Kotug gives timely notice in accordance with Article 2.1 above, and subject to the Supplier's continued compliance with all its other obligations as far as possible, the deadline for the Supplier's performance of the affected obligations will be extended by the period of delay caused by Kotug's failure.
- 2.3. Similarly, if Kotug fails to perform one or more of its obligations under the Agreement, the Supplier will make reasonable efforts to prevent or limit the consequences of such failure and continue to perform its obligations in accordance with the terms and conditions as laid down in the Agreement.
- 2.4. Unless the Supplier complies with the notification procedure as provided for in Article 2.1 above, the Supplier may not rely on any of the circumstances referred to in Article 2.1 above to excuse any delay or additional costs in performing its obligations under the Agreement.

### 3. SUBCONTRACTING

- 3.1. If the Supplier wishes to engage a Subcontractor in the performance of the Agreement, the Supplier must obtain Kotug's prior written approval in good time, but no later than one month before such desired engagement. This approval is required only for an amount in excess of EUR 20,000. The approval will not be unreasonably withheld or delayed by Kotug.
- 3.2. The Supplier will remain fully responsible and liable for the performance of its obligations by a Subcontractor and the Supplier guarantees that each Subcontractor will be bound by terms and conditions that are no less restrictive than the terms and conditions as laid down in the Agreement.
- 3.3. Each Subcontractor must be listed by the Parties in the Schedule: 'Approved Subcontractors' to the Agreement, including a clear description of the obligations that must be performed by that Subcontractor.
- 3.4. The Supplier will notify Kotug in good time of any:
  - a) envisaged changes of any of the Subcontractors; and
  - b) envisaged material changes in the performance of the obligations of any of the Subcontractors; and
  - c) changes and/or circumstances that may prevent any of the Subcontractors from performing their obligations.
- 3.5. The Supplier will ensure that the notification referred to in Article 3.4 above will enable Kotug to:
  - a) sufficiently assess any consequences and/or risks related to such changes and/or circumstances; and
  - b) if necessary, and at the sole discretion of Kotug, demand that the Supplier take corrective measures to prevent and/or limit such consequences and/or risks, including but not limited to the obligation of the Supplier to terminate the contract with this Subcontractor.



- 3.6. The Supplier will not allow its Subcontractors to subcontract any part of its obligations under the Agreement to another subcontractor and/or any other third party, except after prior written approval of Kotug.
- 3.7. Should Kotug so demand in writing, the Supplier will make available to Kotug without undue delay all records, documents and/or reports necessary to prove that the Supplier is in control of its Subcontractors and the obligations performed by these Subcontractors.
- 3.8. The Supplier will indemnify Kotug and hold Kotug harmless against any claims from and/or loss or damage caused by a Subcontractor.

#### **4. SHIPPING CONDITIONS FOR MGDS GOODS**

Packaging, shipping and transport

- 4.1. The Supplier will package the Goods and/or Supplies to be delivered as economically and safely as possible, in such a way that the consignment is manageable and remains undamaged and protected against all climate conditions throughout its transport in the entire logistics chain. All wooden transport packaging must be certified and stamped as treated in accordance with ISPM 15 (see [www.smhv.nl](http://www.smhv.nl)). Handheld packages must in no event weigh more than 23kg. Any items over 23kg must be packed in such a manner that they are suitable for lifting by mechanical aids such as pallet trucks, forklifts, cranes etc. The packaging costs will be borne by the Supplier.
- 4.2. Supplies of dangerous substances must comply with the transport conditions laid down in the ADR/IMDG code, the UAG [United Aviation Group] or by IATA, and must be accompanied by all the relevant documentation. The Supplier guarantees that any dangerous Goods and/or Supplies delivered to any warehouse of the Purchaser will be delivered in limited quantities in accordance with the ADR/IMDG code. The relevant packages must be labelled with the appropriate warning labels for dangerous goods.
- 4.3. The Supplier must mark the consignment clearly with the PO (Purchase Order) number and the number of packages related to the PO.
- 4.4. The outside of the packages must bear a packing list which lists the contents of each package.
- 4.5. If the aforementioned conditions are deviated from, the Purchaser reserves the right to refuse and return the consignment at the Supplier's expense.

#### **5. SUPPLIER ACCESS TO KOTUG'S PREMISES AND VESSELS**

- 5.1. After prior written approval of Kotug, which can also be given by email, Kotug will grant the relevant Employees of the Supplier access to Kotug's Premises and Vessels in so far as this is necessary for the inspection thereof and/or for the delivery of the Products and/or Services and/or Deliverables. Kotug has the right at all times to refuse admission to, or to remove from, Kotug's Premises and Vessels any of the Supplier's Employees who, in the reasonable opinion of Kotug, is not a reliable person to be on Kotug's Premises and Vessels. In that case, the Supplier will not be relieved of its obligations under the Agreement.
- 5.2. The Parties will agree the time and duration that the Supplier's Employees are given access to Kotug's Premises and Vessels. The Supplier will use all reasonable endeavours not to interfere with Kotug's operations, Kotug's employees or any other supplier present on Kotug's Premises. In addition, strict compliance with Kotug's standards regarding HSEQ (Health, Safety, Environment & Quality) is required. Upon visiting the Premises, relevant instructions will be given on these matters which must be signed, if necessary, to confirm they are understood and will be complied with. The provision and use of Standard PPE (Personal Protective Equipment) during a visit to Vessels is the responsibility of the Supplier. Standard PPE consists of safety shoes, helmet, long trousers and a high-visibility vest/jacket. The Supplier's Employees who work on board Kotug's assets must have a command of the English language and work in accordance with Kotug's Values and HSEQ procedures laid down in the Vessel Contractor Letter, which will be handed out on board. In the case of work in malaria areas, malaria prophylaxis and anti-malarial measures must be taken as described in 'PR-068 Malaria procedure'. For all areas a zero Drugs and Alcohol tolerance policy applies, which may be tested according to 'WI-57 Drugs and Alcohol testing'.
- 5.3. The Supplier will ensure that all of the Supplier's Employees carry valid proof of identity while on Kotug's Premises.
- 5.4. The Supplier will be responsible for the delivery to, unloading at and removal from Kotug's Premises, at its own risk and expense, of all equipment necessary for the delivery of the Products and/or Services and/or Deliverables to Kotug.



5.5 All equipment as referred to in Article 5.4 above will remain the sole responsibility of the Supplier and the Supplier will remain fully responsible for the care, safety and storage thereof. The Supplier will remove all equipment at the end of each visit and leave Kotug's Premises in a clean, tidy and safe condition.

## **6. FINANCES**

### Prices and fees

- 6.1 The prices and fees are fixed during the term of the Agreement. All costs associated with the Supplier's performance of the Agreement are deemed to be included in the prices and fees.
- 6.2 Prices and fees include any and all expenses (including but not limited to commuting costs, travel and accommodation expenses, travel time and visa costs), currency fluctuations and the costs of certifying authorities.
- 6.3 Costs of quotations, samples, trial shipments, trial licences and specimen materials will be borne by the Supplier.
- Invoicing and payment**
- 6.4 The Supplier will only submit itemized invoices in accordance with the invoicing requirements as laid down in the Agreement, including appropriate supporting documentation if requested by Kotug.
- 6.5 Kotug will pay undisputed invoices within forty-five days of receipt by Kotug at Kotug's Central Billing Address. This Central Billing Address is [finance@Kotug.com](mailto:finance@Kotug.com). Kotug's records will serve as proof of the date of receipt, subject to evidence to the contrary presented by the Supplier.
- 6.6 If Kotug withholds or delays payment of an invoice on grounds of a breach of the Agreement by the Supplier, Kotug will notify the Supplier thereof as soon as possible and the Supplier will subsequently remedy its default to the satisfaction of Kotug. Failure by Kotug to pay such invoice will not constitute a material breach of the Agreement by Kotug and the Supplier will continue to perform its obligations under the Agreement.
- 6.7 A delay in payment or non-payment of an invoice by Kotug does not entitle the Supplier to suspend the performance of its obligations under the Agreement. The Supplier is not entitled to set off any amounts payable to Kotug against any claim it may have on Kotug.
- 6.8 The Supplier will invoice Kotug as soon as possible, however no later than six months after the end of the period to which such prices and/or fees relate. Kotug will not be obliged to pay any invoice submitted by the Supplier after such term.
- 6.9 Payment of an invoice does not constitute Acceptance of the Products and/or Services and/or Deliverables.
- 6.10 All amounts invoiced to Kotug are gross amounts. Any taxes levied at source will be at the expense of the Supplier.

## **7 CONFIDENTIALITY**

- 7.1 A Party may not disclose Confidential Information to a third party without the prior written approval of the other Party. This obligation will apply during the term of the Agreement and for five years thereafter.
- 7.2 A Party that receives or is in possession of Confidential Information will:
- take all reasonable measures to ensure the safe custody and use of the Confidential Information; and
  - not use Confidential Information for any purpose other than that for which it has been provided; and
  - not retain Confidential Information for longer than is reasonably necessary to fulfil its obligations towards the other Party, and either return the Confidential Information, including any copies thereof, to the other Party immediately after having fulfilled of all the aforementioned obligations or, after having obtained the other Party's written approval, destroy the Confidential Information. Such destruction will be confirmed in writing by the receiving Party should the other Party so demand.
- 7.3 Notwithstanding the above, a Party may disclose Confidential Information of the other Party to its own employees, agents, current suppliers and potential new suppliers, subcontractors, consultants and Associated Companies, in so far as this is necessary for them to perform their tasks, or, in case of an actual or potential transaction of one of the Parties with a third party to acquire equity in the Party concerned or to obtain another form of financing, to that respective third party (or its representatives), provided that:
- the disclosing Party will remain fully liable for any unauthorized disclosure; and
  - such natural person or legal entity is subject to non-disclosure obligations that are no less restrictive than the non-disclosure obligations in this article.



- 7.4 A Party is under no obligation to maintain confidentiality with respect to Confidential Information if:
- such Confidential Information was already in its possession on a non-confidential basis; or
  - such Confidential Information has lawfully come into the possession of that Party independently of the disclosing Party; or
  - that Party is required by law to disclose such Confidential Information to a judicial or administrative authority, provided such Party will notify the other Party in advance of such required disclosure so that the other Party has a reasonable opportunity to object to such disclosure.
- 7.5 If a Party is in breach of any of the confidentiality obligations laid down in this article, that Party will be liable for immediate payment to the other Party of a penalty of EUR 50,000 per event, without prejudice to any other rights the other Party may have, including but not limited to the right to claim compensation.

## **8 INTELLECTUAL PROPERTY RIGHTS**

- 8.1 Kotug and the Supplier will each retain all intellectual property rights developed by each of them prior to, or independently from, the Agreement. Neither Party is permitted to use any trademarks, trade names, logos and/or any other intellectual property rights of the other Party without prior written consent of that other Party.
- 8.2 The Supplier hereby grants Kotug a non-exclusive, perpetual, worldwide and irrevocable licence to use intellectual property rights in and to:
- the Products and/or Services and/or Deliverables; and
  - all materials related to the Products and/or Services and/or Deliverables in order to enable Kotug to enjoy the full benefit of the Products and/or Services and/or Deliverables, including any Documentation.
- 8.3 If the Supplier develops Products and/or Services and/or Deliverables specifically for and/or on behalf of Kotug, such as but not limited to Bespoke Software, by entering into this agreement the Supplier assigns to Kotug all intellectual property rights in and to such Products and/or Services and/or Deliverables, which assignment Kotug hereby accepts.
- 8.4 In case of assigning intellectual property rights in and to Products and/or Services and/or Deliverables, the Supplier:
- hereby expressly waives its right to oppose any modifications and/or changes made by Kotug to any of such Products and/or Services and/or Deliverables;
  - will unconditionally and fully cooperate with Kotug in any proceedings, legal or otherwise, and will perform all acts required to effect such assignment;
  - will ensure that all agreements the Supplier concludes with the Supplier's Employees and Subcontractors stipulate that all intellectual property rights arising from the performance of such agreements will be vested in the Supplier;
  - in case of Bespoke Software, will hand over the current source code to Kotug should Kotug so demand.
- 8.5 The Supplier guarantees that the Products and/or Services and/or Deliverables do not infringe intellectual property rights of third parties. The Supplier will indemnify Kotug against, and hold Kotug harmless from, all third-party claims for infringement of any intellectual property rights of such third party. Kotug will notify the Supplier of such claim in writing as soon as possible.
- 8.6 If, as a result of a court decision or a settlement, Kotug will not be able or allowed to use the Products and/or Services and/or Deliverables, the Supplier will, at its own expense:
- secure the right for Kotug to continue using the Products and/or Services and/or Deliverables; or
  - replace the Products and/or Services and/or Deliverables with equivalent Products and/or Services and/or Deliverables that do not infringe any third-party rights; or
  - modify the Products and/or Services and/or Deliverables in such a way that they no longer infringe such third-party rights.
- 8.7 The legal and other remedies laid down in Articles 8.5 and 8.6 above are without prejudice to any other rights Kotug may have, such as but not limited to the right to claim compensation.

## **9 LIABILITY**

- 9.1 In the event of a breach of the Agreement by one of the Parties, the Party in breach will be liable to compensate the other Party for actually sustained direct loss or damage arising from the breach.



- 9.2 For the purposes of Article 9.1 above, direct loss or damage will in any case include:
- a) all reasonable costs to limit the loss or damage;
  - b) all costs of replacing Products and/or Services and/or Deliverables;
  - c) all costs of overtime of employees and hired personnel;
  - d) all costs of hiring external personnel;
  - e) all costs resulting from loss of data and/or a breach of confidentiality, including confidential data;
  - f) all reasonable costs related to keeping older versions of software systems and/or hardware operational as a consequence of failure to deliver, or deliver on time;
  - g) damage to software systems, hardware, data files, data configuration and any other property, including property of third parties, as well as their replacement;
  - h) all reasonable costs incurred in order to determine the actual cause of the loss or damage, the extent of liability and related direct loss or damage as such and the method of recovery;
  - i) fines imposed by Regulators;
  - j) all reasonable costs of legal assistance.
- 9.3 Neither Party will be liable towards the other Party for indirect loss. For the purposes of this Article 9.3, indirect loss is taken to mean loss of profits, revenue, turnover or goodwill or missed business opportunities.
- 9.4 Any restrictions or limitations of liability as provided for in the Agreement do not apply to (i) the Supplier's obligations to indemnify Kotug and (ii) the Supplier's liability in case of fraud, wilful misconduct or gross negligence of the Supplier or its directors, employees or Subcontractors and (iii) the Supplier's liability in case of personal injury or death.
- 9.5 Payment of a penalty by a Party to the other Party is without prejudice to any other rights the other Party may have, including but not limited to the right to claim compensation.

## **10 ASSOCIATED COMPANIES OF KOTUG**

- 10.1 Any Associated Company of Kotug is entitled to receive Products and/or Services and/or Deliverables under the Agreement and, if desired by such Associated Company of Kotug, enter into an agreement with the Supplier under the same terms and conditions as those laid down in the Agreement.
- 10.2 Kotug may, subject to prior written notification to the Supplier and at no additional cost to Kotug, assign all or some of its rights and/or obligations under the Agreement to any Associated Company of Kotug, provided that such Associated Company confirms in writing that it accepts the terms and conditions laid down in the Agreement.
- 10.3 The Supplier will cooperate unconditionally and fully with Kotug in order to enable Kotug to exercise its right as provided for in Article 10.2 above.
- 10.4 Kotug's other and/or remaining rights and obligations under the Agreement will not be adversely affected by Kotug's exercise of any of its rights as provided for in Article 10.2 above.

## **11 DIVESTMENT**

- 11.1 If Kotug divests an Associated Company of Kotug, or part of Kotug's business or that of an Associated Company (the 'Divested Entity'), this Associated Company will retain all acquired rights with respect to the Products and/or Services and/or Deliverables received under the Agreement and Kotug will be entitled, subject to prior written notification to the Supplier and at no additional costs to Kotug, to:
- a) terminate all or part of the Agreement; or
  - b) assign all or some of its rights and/or obligations under the Agreement to the Divested Entity, provided that this Divested Entity confirms in writing that it accepts the terms and conditions as laid down in the Agreement; or
  - c) sublicense all or some of its licensing rights and other rights under the Agreement to the Divested Entity; or
  - d) provide certain services to the Divested Entity using the licensing rights and other rights under the Agreement.
- 11.2 The Supplier will cooperate unconditionally and fully with Kotug to enable Kotug to exercise its rights referred to in Article 11.1 above.
- 11.3 If Kotug exercises one or more of its rights referred to in Article 11.1 above, this will not affect Kotug's other and/or remaining rights and obligations under the Agreement.



## **12 THIRD-PARTY SERVICE PROVIDER**

- 12.1 If Kotug or an Associated Company of Kotug outsources certain activities to an independent third-party service provider ('Third-Party Service Provider') with the purpose of delivering these activities to Kotug or to an Associated Company of Kotug, Kotug or the relevant Associated Company of Kotug will be entitled, subject to prior written notification to the Supplier and at no additional costs to Kotug:
- a) to assign all or some of its rights and/or obligations under the Agreement to the Third-Party Service Provider, provided that this Third-Party Service Provider confirms in writing that it accepts the terms and conditions as laid down in the Agreement;
  - b) to sublicense all or some of its licensing rights and other rights under the Agreement to the Third-Party Service Provider.
- 12.2 The Supplier will cooperate unconditionally and in full with Kotug to enable Kotug to exercise its rights referred to in Article 12.1 above.
- 12.3 If Kotug exercises one or more of its rights referred to in Article 12.1 above, this will not affect Kotug's other and/or remaining rights and obligations under the Agreement.

## **13 TERMINATION**

- 13.1 A Party will be entitled to terminate the Agreement by registered letter with immediate effect, without being liable for any resulting costs incurred and/or loss suffered, if the other Party has committed a breach of the Agreement:
- a) that can be remedied and the Party in default has failed to remedy the breach within the reasonable period of time specified in the notice of default from the other Party providing full details of the breach and requiring it to be remedied; or
  - b) that cannot be remedied.
- In both cases such breach justifies terminating the Agreement.
- 13.2 Supplementary to Article 13.1 above, a Party will be entitled to terminate the Agreement by registered letter with immediate effect, without being liable for any resulting costs incurred and/or loss suffered, if one or more of the following situations arise:
- a) the other Party is declared insolvent or has been granted suspension of payment;
  - b) the other Party's business is liquidated or its business activities are discontinued;
  - c) the other Party loses control of all or part of its assets on account of an insolvency practitioner taking control or due to another reason and has not regained control thereof within thirty days;
  - d) the other Party has rightfully invoked force majeure (as defined in Section 6:75 of the Dutch Civil Code) and the period of force majeure exceeds thirty days;
  - e) the other Party is placed on a sanctions list.
- 13.3 Supplementary to Articles 13.1 and 13.2 above, Kotug will be entitled to terminate the Agreement by registered letter with immediate effect if one or more of the following situations arise:
- a) the Supplier has influenced or attempted to influence the awarding of the Agreement by directly or indirectly offering and/or providing a personal favour to one or more of Kotug's employees or to a person who has another type of relationship with Kotug, or behaves as such during the performance of the Agreement;
  - b) a third party acquires a majority of the issued share capital in the Supplier or the assets that the Supplier uses in the performance of the Agreement are transferred to a third party. The Supplier must inform Kotug of such takeover or transfer no later than within ten working days after the takeover or transfer has been effected;
  - c) sanctions are or will be imposed on the Supplier, or a prohibition or restriction under a UN resolution, trade or economic sanctions, or laws and/or regulations of the European Union, the United Kingdom, the United States of America or the Netherlands.
- 13.4 On termination of the Agreement and if so requested by Kotug, the Supplier will cooperate with Kotug to effect a smooth transition of the delivery of the Products and/or Services and/or Deliverables back to Kotug or to a third party. Kotug will reimburse the Supplier for any pre-agreed reasonable costs incurred by the Supplier, unless termination is a consequence of Articles 13.1 and 13.3 above.
- 13.5 The Parties hereby exclude the applicability of Sections 7:402(2) and 7:408(2) of the Dutch Civil Code.



#### **14 CORPORATE RESPONSIBILITY**

- 14.1 The Supplier guarantees that none of the Products and/or Services and/or Deliverables delivered by the Supplier to Kotug have been manufactured and/or supplied by making use of child labour and/or forced or compulsory labour.
- 14.2 The Supplier applies wages and other pay and employee benefits that represent just and fair remuneration with transparent payment conditions within the framework of government policies and in compliance with ILO standards.
- 14.3 The Supplier prevents, or if this is not possible, minimizes and limits air emissions and water discharges, and handles, stores, transports, uses and disposes of solid waste and by-products in a safe manner.
- 14.4 The Supplier guarantees that it will comply with all applicable legislation in respect of environmental protection, terms and conditions of employment and healthy and safe working conditions.

#### **15 COMPLIANCE**

- 15.1 The Supplier will comply with all statutory and regulatory requirements applicable to the Supplier, the subject matter of the Agreement and the Supplier's performance of the Agreement. The Supplier will provide Kotug with all information and assistance requested by Kotug to enable Kotug to comply with the statutory and regulatory requirements applicable to Kotug.
- 15.2 The Supplier will comply with all of Kotug's policies relevant to the performance of the Agreement, which are provided by Kotug to the Supplier in writing and may be amended by Kotug from time to time.
- 15.3 The Supplier will agree to any amendments to the terms and conditions as laid down in the Agreement which, in the reasonable opinion of Kotug, are necessary to comply with the statutory and regulatory requirements applicable to Kotug.

#### **16 COMPLIANCE WITH TRADE LAWS**

- 16.1 The Supplier guarantees that it shall ascertain and comply with all applicable obligations and restrictions arising out of or following from any and all relevant sanctions and export controls legislation of the United Nations, the European Union, the United States of America, the Netherlands, the country where the Supplier has its main place of business and any other country that is or may be or become relevant in respect of the Agreement (together, the "Trade Laws").
- 16.2 The Supplier guarantees that Kotug's Vessels, Goods and/or Supplies are and will be solely used for the civil purposes as laid down in the Agreement and are not and will not be used for, or in connection with, any illicit purposes, including, but not limited to, activities involving torture or repression or other human rights violations, weapons of mass destruction or chemical, biological, radiological and/or nuclear activities, any project related to Crimea or Sevastopol, deep water, Arctic offshore or shale oil projects, or the construction of any Russian energy export pipelines, including Nord Stream 2 and Turk Stream.
- 16.3 The Supplier will maintain adequate internal checks and procedures to monitor for suspicious activity and ensure compliance with the Trade Laws, including but not limited to procedures to ensure that all activities and transactions under the Agreement are accurately recorded and reported in its books and records to reflect the activities and transactions to which they pertain, including but not limited to the purpose of each transaction and to whom it was made or from whom it was received.
- 16.4 The Supplier guarantees that it will not directly or indirectly sell, deliver or provide the Kotug's Vessels, Goods and/or Supplies, or otherwise make Kotug's Vessels, Goods and/or Supplies available, to any legal or natural person, entity, group or (government) organisation that is subject to sanctions or restrictions under the Trade Laws.
- 16.5 The Supplier's failure to comply with any provision of this clause can be ground – subject to the sole discretion of Kotug – for immediate cancellation of the Agreement by Kotug without any prior notification. In the event of such cancellation, Kotug shall be under no further obligation resulting from the Agreement and the Supplier shall indemnify Kotug from any direct and indirect damages, claims, penalties or other losses resulting from that breach. Kotug shall be entitled to any other remedies available at law or in equity.
- 16.6 The Supplier will ensure that all obligations under this clause be passed on to any third party that The Supplier contracts or uses in its performance of the Agreement, or that takes over any obligation, or part thereof.



## **17 COMPLIANCE WITH ANTI-BRIBERY AND ANTI-CORRUPTION LAWS**

- 17.1 The Supplier will at all times comply with all applicable obligations and restrictions arising out of or following from any and all relevant anti-bribery and anti-corruption legislation of the United States of America, the United Kingdom, the Netherlands, the country where the Supplier has its main place of business and any other country that is or may be or become relevant in respect of the Agreement (together, the “**Anti-Bribery Laws**”).
- 17.2 The Supplier will maintain adequate internal checks and procedures to monitor for suspicious activity and ensure compliance with the Anti-Bribery Laws, including but not limited to procedures to ensure that all activities and transactions under the Agreement are accurately recorded and reported in its books and records to reflect the activities and transactions to which they pertain, including but not limited to the purpose of each transaction and to whom it was made or from whom it was received.
- 17.3 Any offer to and acceptance by the Supplier's board member(s) and/or employees of money, gifts, travel, entertainment or any other consideration, in relation to the Agreement or Kotug, that is intended to or may be construed as an inducement to act in any manner is strictly prohibited. The Supplier will not offer, promise or give anything, including but not limited to political contributions, whether directly or indirectly, to anyone, including any political party or campaign, any official or employee of any public organization, any public international organization or any official or employee of any government-owned enterprise or institution for the purpose of obtaining or retaining business or otherwise securing an improper advantage in relation to the Agreement or Kotug. In relation to the Agreement or Kotug, The Supplier will not offer, promise, give or accept anything to or from a business relationship, unless it is for a genuine purpose, reasonable, given in the ordinary course of business and it complies with the local laws.
- 17.4 The Supplier will immediately notify Kotug if it becomes aware of any behaviour in the performance of the Agreement by its board member(s) and/or employees that is or may be inconsistent with the Anti-Bribery Laws.

## **18 PERSONAL DATA**

- 18.1 Both Parties will comply with their respective obligations under Data Protection Laws.
- 18.2 The Supplier will process Personal Data solely in accordance with the terms and conditions as laid down in the Agreement and Data Protection Laws.
- 18.3 To the extent the Parties process Personal Data from the other Party in relation to (i) contact information, (ii) contract management, (iii) payment processing and (iv) pre-employment screening, the Parties hereby agree that each Party will act as an independent Controller with respect to such processing.

## **19 EXTERNAL LINKS**

- 19.1 The Supplier is not permitted to:
  - a) create any links or connections between Kotug’s network(s) and/or systems, including computer systems, and any external systems or devices, or try to obtain remote access to Kotug’s network(s) and/or systems, including computer systems, without Kotug’s explicit prior written approval; and
  - b) use an approved link or connection as described above for any purpose other than to fulfil its explicit obligations under the Agreement.
- 19.2 The Supplier will:
  - a) take all appropriate measures to prevent the Supplier’s employees, former employees or any other persons using the Supplier’s resources from breaching the Supplier’s obligations referred to in Article 17.1 above; and
  - b) comply with all of Kotug’s security policies, minimum standards and guidelines as well as any other instructions that may be given by Kotug on this subject from time to time.
- 19.3 If the Supplier fails to comply with one or more of the obligations referred to in this article, it will owe Kotug an immediately payable penalty of EUR 50,000 per event, without prejudice to any other rights Kotug may have, including but not limited to the right to claim compensation.
- 19.4 The Supplier will inform Kotug immediately if it becomes aware of any issues that may impact the security of Kotug’s networks, systems, computer systems and/or data.





## **20 APPLICABLE LAW AND DISPUTES**

- 20.1 This Agreement will exclusively be governed by and interpreted in accordance with Dutch law.
- 20.2 The Parties will endeavour to settle amicably any disputes that may arise between them in connection with the Agreement and negotiate in good faith in order to achieve a result acceptable to both Parties.
- 20.3 Disputes between the Parties that cannot be settled amicably will be settled exclusively by the competent court in Rotterdam, the Netherlands.
- 20.4 The Vienna Convention on Contracts for the International Sale of Goods does not apply.

## **21 OTHER PROVISIONS**

### Documentation

- 21.1 The Supplier will provide Kotug free of charge with all Documentation and drawings relevant to the Products and/or Services and/or Deliverables, including all subsequent versions, in the English language. Kotug has the right to copy and distribute the Documentation free of charge for internal use by Kotug and/or Associated Companies of Kotug.
- 21.2 The Supplier guarantees that the Documentation will be sufficiently detailed to allow reasonably skilled users to understand the operation of the Products and/or Services and/or Deliverables and that the Documentation accurately reflects the operation of the Products and/or Services and/or Deliverables.

### Amendments

- 21.3 The Agreement can only be amended by means of a written document signed by two authorized representatives of both Parties.

### Notifications

- 21.4 A notification or any other communication under the Agreement must be sent in writing by courier, post or email to the relevant contact person, using the contact information specified in the Agreement.

### Validity

- 21.5 If a provision of the Agreement is or becomes illegal, invalid, void or unenforceable, this will not affect the validity or enforceability of other provisions of the Agreement. In that case, the Parties will agree on a new provision with the same purport, on condition that the purport of the original provision of the Agreement is retained as much as possible.

### Survival

- 21.6 Provisions of the Agreement which by their nature survive after the Agreement has been terminated for whatever reason, will remain in force until they have been complied with, including provisions on confidentiality, applicable law and disputes, the processing of Kotug's data, guarantee, indemnity, intellectual property rights, liability, inspection, audits and survival, notwithstanding obligations to undo as a result of termination.

### No Waiver

- 21.7 If a Party does not exercise a right under this Agreement, this never means that it waives that right. Any waiver of, or approval to deviate from, the terms and conditions as laid down in the Agreement will be effective only if it is in writing and signed by the Party granting the waiver or the approval, and will apply only to the case concerned for the purpose for which it has been granted.

### Publicity

- 21.8 The Supplier will not issue any communication (such as a reference on a website, a press release or any other public announcement) concerning Kotug, any Associated Company of Kotug or the Agreement without prior written approval of Kotug (through its Corporate Communications Department), unless such communication is required by law, in which case the Supplier will inform Kotug as soon as possible, before such communication is made.

### Insurance

- 21.9 The Supplier will at all times maintain insurance policies that sufficiently cover the relevant risks in relation to the Agreement and the Supplier's performance thereof, on terms and conditions that are customary in the relevant insurance market. The Supplier will provide proof of such insurance policies, should Kotug so request in writing.



**SCHEDULE 'DEFINITIONS'**

Acceptance	Kotug's written acceptance of the Products and/or Services and/or Deliverables after successful performance of the Acceptance Test, at the sole discretion of Kotug.
Acceptance Test	The acceptance test to be performed by Kotug enabling Kotug to determine whether the Products and/or Services and/or Deliverables meet the agreed Specifications.
Agreement	The written agreement entered into between Kotug and the Supplier, including its Schedules and the Terms and Conditions of Purchase (Kotug's Terms and Conditions of Purchase), as well as any other document explicitly referred to in the Agreement as forming part of the Agreement.
Associated Company	<u>Of Kotug:</u> Every business or legal entity in which Kotug Maritime Services N.V. has a direct or indirect interest of at least 50%. <u>Of the Supplier:</u> Every business or legal entity in which the Supplier has a direct or indirect interest of at least 50%.
Bespoke Software	The software specifically developed and/or built by the Supplier for Kotug as described in the Agreement.
Central Billing Address	The central billing address is finance@Kotug.com.
Confidential Information	a) information about a Party that is or may come into the possession of the other Party during a request for quotation, information or offer process; b) information about a Party that is or may come into the possession of the other Party during the negotiation, preparation or performance of an Agreement, including the existence and substance of the Agreement itself; c) information about or received from a Party that is indicated by that Party as confidential; d) information about or received from a Party which the other Party can reasonably expect to be confidential.
Controller	The meaning given in the General Data Protection Regulation (EU) 2016/679.
Data Protection Laws	All laws and regulations applicable to the processing of Personal Data under the Agreement, including the General Data Protection Regulation (EU) 2016/679.
Data Subjects	The meaning given in the General Data Protection Regulation (EU) 2016/679.
Deliverable	The result of the Services as described in the Agreement.
Documentation	All user, operating and/or technical manuals, flow charts, diagrams and summaries and any other relevant documents to be delivered by the Supplier to Kotug free of charge that are necessary for the effective installation, operation, understanding, use and/or maintenance of the Products and/or Services and/or Deliverables, in the language agreed on in the Agreement.
Error	The failure or partial failure of the Products and/or Services and/or Deliverables to meet the Specifications and any other properties as guaranteed by the Supplier.
Escrow Agreement	An agreement between Kotug, the Supplier and an escrow agent in which the deposit of the source code, summaries and documentation relevant to the Standard Software is regulated, including the terms and conditions under which Kotug is entitled to receive such deposit.
Goods	The tangible goods (including any embedded software) described in the Agreement.
Key Person	A person specifically named in the Agreement who, due to his or her knowledge and experience, is of great importance for the fulfilment of the Supplier's obligations under the Agreement and who will not be removed from the assignment and/or reassigned by the Supplier without Kotug's prior written approval.
Kotug's Data	a) all data, including Personal Data, provided by Kotug to the Supplier to be processed by the Supplier as part of the delivery of the Products and/or Services and/or Deliverables to Kotug; b) all data, results, instructions, reports, documentation and other information, which have been, or will be, provided by the Supplier, or its Subcontractors, as part of the delivery of the Products and/or Services and/or Deliverables to Kotug; c) all data derived from the data referred to under a) and b) above and data describing this data ('metadata').
Kotug's Premises	The physical location referred to in the Agreement where the Supplier will deliver to Kotug the Products and/or Services and/or Deliverables.
Personal Data	The meaning given in the General Data Protection Regulation (EU) 2016/679.
Processor	The meaning given in the General Data Protection Regulation (EU) 2016/679.
Products	The Goods and/or Software.



Terms and Conditions of Purchase	Kotug's Terms and Conditions of Purchase.
Regulator	National or supra-national institutions, established in accordance with treaties and/or laws, which control and regulate the businesses and day-to-day operations of Kotug and/or Associated Companies of Kotug.
SaaS	The remote Software to be made available by the Supplier to Kotug as a Service.
Schedule	A schedule to the Agreement which forms an integral part of the Agreement, containing the terms and conditions with respect to a specific subject.
Security Breach	The occurrence of any actual or suspected breach of security which will probably result in, actually results in or may have resulted in, accidental or unlawful destruction, loss, alteration, compromise, disclosure of, or access to Kotug Data stored, sent or otherwise processed by or on behalf of the Supplier in connection with the delivery of the Products and/or Services and/or Deliverables.
Service Credit	A reduction of the prices and fees Kotug is entitled to if the Supplier fails to meet the Service Levels.
Service Level	The service levels applicable to the delivery of the Services and/or SaaS as described in the Agreement.
Vessels	All vessels owned by Kotug.
Services	The services described in the Agreement.
Software	The Standard Software and/or Bespoke Software.
Specifications	The agreed functional and/or technical specifications and/or any other requirements the Products and/or Services and/or Deliverables must meet.
Standard Software	The generally available software as described in the Agreement.
Subcontractor	Any natural person, not being a Supplier's Employee, or legal entity, including Associated Companies of the Supplier, contracted by the Supplier in the performance of the Agreement.
Supplier's Employee	Any natural person employed or hired by the Supplier and engaged by the Supplier in the performance of the Agreement.
Update	A new version of the Software consisting of, amongst other things, (i) patches, (ii) bug fixes (iii) correction of Errors and/or (iv) minor improvements to the Software's functionalities.
Upgrade	A new version of the Software consisting of significant changes to or major improvements to the previous version of the Software, or the functionalities of that version, including all Updates in relation to the previous versions.
Virus	Any malicious programming code, programming instruction or set of instructions as part of the Software that has been developed to damage, interfere with, disable and/or adversely affect the functioning and/or operating of the Software or otherwise negatively impact the business and/or business operations of Kotug or Kotug's Data, such as but not limited to computer viruses, worms and trojan horses.
Working Day	Monday - Friday from 6:00 to 21:00 local time, public holidays excepted.