

## GENERAL TERMS AND CONDITIONS OF VIVACADENA b.v.

hereinafter referred to as the 'General Terms and Conditions'

### Article 1 - Definitions

In these General Terms and Conditions, the following terms will have the meanings assigned below:

<b>'Vivacadena'</b>	:The private limited liability company Vivacadena b.v., established pursuant to its articles of association in Amsterdam and having offices at Maanlander 37, Amersfoort.
<b>'Services'</b>	:The services offered by Vivacadena as defined in the Agreement.
<b>'Client'</b>	:Vivacadena counter party in the Agreement.
<b>'Quotation'</b>	:Any quotation directly or indirectly arising from or preceding the Agreement which is issued by Vivacadena.
<b>'Agreement'</b>	:Agreement concluded between the Client and Vivacadena.
<b>'Cooperation'</b>	:Cooperation between Vivacadena and Client for which no (or not yet) separate Agreement has been closed.

### Article 2 - Scope

1. These General Terms and Conditions form part of the Agreement and are applicable to all Quotations and to the creation and fulfilment of all obligations between Vivacadena and its clients.
2. Vivacadena will not be bound by any departure proposed by the Client from any provision of these General Terms and Conditions until Vivacadena has expressly confirmed its acceptance of such departure in writing.

### Article 3 – Intellectual Property

1. Parties agree that Vivacadena retains all intellectual property rights (like patent, brand mark, service mark, copyright, design, knowledge, confidential information) whether or not registered or not to be registered, whether in the Netherlands or wherever in the world, and all or any goodwill, connected hereto, that – wherever or whenever – will or might be executed in the scope of the Technology Services or other services to be delivered, remain at Vivacadena. Client will not copy, alter, reproduce or communicate to third parties any Software Applications, results or underlying knowledge of, for example, the algorithms employed without express written permission of Vivacadena.
2. Both Parties acknowledge and agree that, under this Agreement or this Cooperation, neither Party shall acquire ownership of any Intellectual Property Rights in and to the property and Intellectual Property Rights of the other Party, unless otherwise agreed to in this Agreement. For the avoidance of any doubt, Client acknowledges and accepts that Client shall have no rights in or to products, concepts or Software Materials other than the right expressly granted by this Agreement.
3. During the term of this Agreement and for a period of 24 (twenty four) months after this Agreement has ended Client shall not develop, or be involved –directly or indirectly- in the development of, any software that may compete, directly or indirectly, with the Vivacadena Software, except for the development of the Client distribution scheduling software. For the sake of clarity, Client is permitted to buy and implement software with comparable functionality.

### Article 4 - Invoicing and payment

1. Unless expressly agreed otherwise in the Agreement, invoices from Vivacadena for Services will be paid within fifteen (15) days of the invoice date.
2. Unless expressly agreed otherwise in the Agreement, all amounts charged to the Client by Vivacadena by means of an invoice will be paid without discount or deduction. The Client will have no right of set-off.
3. Amounts charged to the Client by Vivacadena by means of an invoice will in all cases be denominated in Euros.

### Article 5 - Default

1. The Client will be in default by the mere fact of having exceeded the payment period stated on an invoice. In that event all amounts receivable by Vivacadena from the Client, however arising, will become due and payable immediately.
2. If all amounts stated on the relevant invoice are not paid by the date of expiry of the payment period, the

Client will be liable for interest in respect of late payment on the principal sum outstanding, at 2.5 percentage points above the statutory interest rate in force at that time. In that event the Client will also be liable for payment to Vivacadena of an amount equal to 20% of the principal sum outstanding, by way of compensation for judicial and extra judicial expenses incurred by Vivacadena.

#### Article 6 - Suspension of services

In the event of default by the Client as referred to in Article 4 of these General Terms and Conditions, Vivacadena will be fully entitled to suspend the Services until payment is made.

#### Article 7 - Exclusion of liability

1. Vivacadena shall not be liable under any circumstances for damages in respect of any special, indirect or consequential loss including, without limitation, loss of profits, loss of revenues, failure to realize expected savings or similar losses of any kind.
2. Limitation of Liability - Vivacadena's total liability for any action, claim, loss or damage arising out of the performance of services in connection with an engagement, regardless of the form of action, claim, loss or damage, shall in no event exceed the aggregate of the amounts paid to Vivacadena under the terms of that engagement
3. Several liability - In any action, claim, loss or damage arising out of the engagement, the parties agree that Vivacadena's liability, subject to the limits set out in sections 7.1 and 7.2 above will be several and not joint and the client may only claim payment from Vivacadena of its proportionate share of the total liability based on degree of fault.

#### Article 8 - Exclusion of *de facto* management

1. The Client will use its best endeavours to prevent the performance by Vivacadena of the Services being deemed by third parties as *de facto* management of the Client by Vivacadena.
2. The Client gives an undertaking, by virtue of the Agreement and these General Terms and Conditions, that neither it nor its successors in law will have any claim against Vivacadena in respect of the performance of the Services on the basis of alleged *de facto* management.
3. The Client indemnifies Vivacadena against all third-party claims against Vivacadena on the basis of alleged *de facto* management.

#### Article 9 - Confidentiality

Vivacadena and the Client undertake, each to the other, to keep confidential all information concerning one another which may come into their possession relating to the performance of the Agreement or their products, services or operations, on pain of a penalty of EUR 50,000 per infringement.

#### Article 10 - Dissolution

Either party will be entitled to dissolve the Agreement with immediate effect, by means of an extra judicial declaration served by registered letter, if:

1. the other party remains substantially in default in the fulfillment of its obligations under the Agreement and fails to rectify that situation within a reasonable period, except where Vivacadena is prevented from doing so by *force majeure*, unless the *force majeure* persists for more than two consecutive weeks;
2. the other party is granted moratorium, goes into liquidation, or is declared bankrupt.

Without prejudice to the provisions of Article 3, paragraph 2, of these General Terms and Conditions, neither party will be entitled to compensation in the event of termination on the above grounds.

#### Article 11 - Employees

The parties hereby undertake, each to the other, that they will not approach the other party's employees with a view to inviting them to accept employment with their companies or one of their subsidiaries.

#### Article 12 - Applicable law, competent court

1. All agreements made between Vivacadena and the Client will be governed by Netherlands law.
2. Any disputes arising in connection with those agreements will be brought before a competent Court.

#### Article 13 - Information

For the duration of the Agreement, the parties will keep one another fully informed as early as possible of all

circumstances and events which are or may be relevant to the performance of the Agreement.

Article 14 - Unforeseen circumstances

1. If circumstances arise during the life of the Agreement for which the Agreement makes no provision and which are of such a nature that performance of the Agreement without amendment would be unreasonably onerous to one or both parties, the parties will consult together to find a solution whereby performance of the agreement ceases to be unreasonably onerous.
2. If the consultation between the parties as referred to in Article 13, paragraph 1, of these General Terms and Conditions does not result in agreement on a solution, either party will be entitled to dissolve the Agreement if justified by the circumstances referred to Article 13, paragraph 1, of these General Terms and Conditions.