

## General Terms and Conditions

### 1. Definitions

- 1.1 **Agreement:** the arrangements, agreed in a written and/or digital recording, on the basis of which Agile Cockpit performs Service(s) for the benefit of Client and to which these terms and conditions apply.
- 1.2 **Client:** any (legal) entity or person who has concluded an Agreement with Agile Cockpit, or as the case may be responds to or requests an offer or quotation.
- 1.3 **Consultant:** (IT) professional who possesses (a part of) the required (software) knowledge and skills and who is deployed by Agile Cockpit in the performance of the Agreement.
- 1.4 **Consultancy Services:** services in which the professional focuses on advising Client regarding the utilisation of information technology, in which the tasks consist of providing advice and implementation. The performance of training courses at the location of Client is not included in Consultancy Services, and is instead designated as Training Services.
- 1.5 **In-Company Training Courses:** training courses which are arranged by Agile Cockpit at the location of Client.
- 1.6 **Open Schedule Training Courses:** training courses which will be provided at the location of Agile Cockpit or at a location to be determined by Agile Cockpit.
- 1.7 **Personal Data:** information that can be used to directly or indirectly identify an individual in connection with services under the Agreement. Personal Data does not include individual business contact data received by Agile Cockpit as a controller.
- 1.8 **Process / Processing:** collecting, recording, or otherwise accessing Personal Data under the Agreement.
- 1.9 **Training Services:** services in which Agile Cockpit focuses on education in the field of information technology. Advising Client with regard to the performance of Training Services is not included in the Training Services but is instead designated as Consultancy Services.

### 2. Application of the Terms and Conditions

- 2.1 These general terms and conditions (“Terms and Conditions”) of Agile Cockpit, LLC (“Agile Cockpit”) shall apply to all order confirmations and any arrangements agreed in a written and/or digital recording, on the basis of which Agile Cockpit and/or its contractors perform certain service(s) for the benefit of the Client (the “Agreement(s)”) between Agile Cockpit and the Client.
- 2.2 If any part of the general section of these terms and conditions conflicts or is incompatible with any of the provisions of any specific section of these terms and conditions agreed between Agile Cockpit and the Client, then the provisions of the specific section shall prevail.
- 2.3 The applicability of any of the Client’s purchasing terms or other conditions is expressly rejected.

### 3. Offers

- 3.1 For the avoidance of doubt, all offers and other statements issued by Agile Cockpit shall be subject to these Terms and Conditions, except where specified otherwise in writing by Agile Cockpit. No party shall have any obligation to enter into an Agreement with the other and each party is entitled to refuse to enter into an Agreement without being obliged to specify the reasons for such refusal.
- 3.2 The Client shall guarantee the accuracy and completeness of the information that it submits to Agile Cockpit and on which Agile Cockpit bases its offer.

### 4. Price and Payment

- 4.1 Agile Cockpit shall invoice the Client in accordance with the invoicing schedule set forth in the Agreement. Except where agreed otherwise, all service fees shall be in US Dollars and the Client shall effect all payments by Electronic Funds Transfer or Credit Card Transfer, or, if stated otherwise, in accordance with the terms of the invoice and in US Dollars. All service fees are exclusive of any taxes, value added tax (“VAT”), and other levies that may be imposed. The Client is solely responsible for the payments of any taxes attributable to the services performed by Agile Cockpit or its contractors.

- 4.2 The Client may under no circumstances derive any rights or expectations from any cost estimates or budgets issued by Agile Cockpit. An available budget made known by the Client to Agile Cockpit shall under no circumstances apply as a (fixed) price agreed between the parties for the service to be provided by the Supplier.
- 4.3 If the Client consists of more than one natural person or legal entity, each such person or entity shall be jointly and severally liable with respect to any obligations, including payment of any amounts due to Agile Cockpit, as set forth in the invoice or in the Agreement.
- 4.4 The relevant documents and information from Agile Cockpit's administration or systems shall be conclusive evidence of the service provided by Agile Cockpit and the amounts payable by the Client in return for such services, without prejudice to the Client's right to submit evidence to the contrary.
- 4.5 All invoices will be paid by Client in accordance with the payment terms stated in the invoice. In the absence of specific conditions Client will make the payment within ten (10) working days from the invoice date. The Client shall not be entitled to suspend any payments or to offset any amounts due.
- 4.6 Any late service fees will accrue the maximum interest rate allowed under applicable law until such payment is made in full.
- 4.7 If the Client fails to pay the amounts due, or fails to pay the amounts due in a timely manner, statutory commercial interest shall automatically accrue and be payable by the Client on the outstanding amount. If the Client still fails to pay the amount owed after receiving a demand or notice of default, Agile Cockpit may refer the debt for collection, in which case the Client shall also be obliged to pay all in-court and out-of-court expenses in addition to the total amount due, including all costs charged by external experts.

## 5. Confidentiality

- 5.1 The Client and Agile Cockpit acknowledge that each party will receive and have access to certain confidential and proprietary information of the other party, whether oral, written, or electronically stored ("Confidential Information") in connection with the performance of the Agreement. Each party agrees that it shall ensure and use reasonable efforts to safeguard such Confidential Information received from the other party that is known or should reasonably be known to be confidential in nature. Each party shall use the other party's Confidential Information solely for the purpose of fulfilling its obligations in the Agreement and these Terms and Conditions. Confidential Information shall be regarded as confidential if it is designated as such by one of the parties. Neither party will disclose, in whole or in part, the other party's Confidential Information to any person, except to such party's employees or contractors who require access to such information to fulfil the purposes of the Agreement.
- 5.2 Each party acknowledges that any unauthorized use or disclosure of the Confidential Information may cause irreparable damage to the other party. If an unauthorized use or disclosure occurs, such party will take at its expense, all steps which are necessary to recover the other party's information and to prevent subsequent unauthorized use or dissemination, including availing itself of actions for seizure and injunctive relief. If such party fails to take these steps in a timely and adequate manner, the other party may take them at such party's expense.
- 5.3 In the event the Client is required by a governmental authority to disclose any Confidential Information of Agile Cockpit, the Client shall, upon receiving such request unless prohibited by law, promptly notify Agile Cockpit in writing of such request to enable Agile Cockpit to take all necessary measures it deems convenient at its sole discretion to ensure confidential treatment of such Confidential Information, including seeking a protective order with respect thereto or waiving compliance with the provisions of this Section 5. In any event, the Client shall only disclose the part of the Confidential Information which is legally required to be disclosed and shall use its best efforts to cooperate in obtaining confidential treatment of such disclosed part of the Confidential Information.

5.4 Upon the termination of the Agreement, each party shall immediately return to the other party, or promptly destroy (and not retain any copies) any and all Confidential Information of the other party.

5.5 “Confidential Information” shall not include any information that (i) is known by a party prior to the disclosure by the other party without breaching any confidentiality or similar agreement; (ii) is independently developed by a party without use of or reference to the other party’s Confidential Information; (iii) is acquired by a party from a third party without breaching any confidentiality or similar agreement with respect to such information; or (iv) is or becomes publicly available through no breach of these Terms and Conditions.

## 6. Personal data

6.1 The full responsibility for the data processed through the use of the service by the Client shall rest with the Client. The Client shall guarantee Agile Cockpit that the data is not (processed) illegal and does not infringe the rights of third parties. The Client shall indemnify Agile Cockpit against claims by third parties, of whatever nature, in relation to the processing of this data or the execution of the Agreement.

6.2 It is the responsibility of the Client to enter into a data processing agreement with Agile Cockpit. Both parties acknowledge that Agile Cockpit, while executing the Agreement, needs to be considered as a data processor as referred to in the General Data Protection Regulation (2016/679) (GDPR).

6.3 Agile Cockpit will implement appropriate technical and organizational measurements to secure the data against any loss or unauthorized modification or processing, taking into account the state of art, the costs of the implementation and the confidentiality of the data.

6.4 The client will only make data available if it has ensured that the necessary security measures are in place. The client is responsible for monitoring the compliance to the agreements on security of both parties.

6.5 The data that Agile Cockpit will process during the Agreement will be considered confidential and will be handled in compliance with the applicable privacy regulations. Personal data will not be shared with any third party unless this is necessary for the execution of the Agreement.

6.6 Agile Cockpit will not store personal data longer than necessary. Unless agreed otherwise, the maximum retention period for personal data in a not-pseudonymised or anonymised form will be seven (7) years after the expiry date of the Agreement. After this period Agile Cockpit will destroy the data of Client.

## 7. Intellectual Property

7.1 The Client acknowledges that all rights, title and interests in all copyrights, trademarks, patents, software, websites, source code, computer programs, data files, hardware or other materials such as analyses, designs, documentation, reports, quotations, any related preliminary material, and all intellectual property and proprietary rights developed for or made available to the Client (the “IP”) on the basis of the Agreement shall remain exclusively vested in Agile Cockpit, its licensors or its suppliers. The Client agrees to execute the instruments that may be appropriate or necessary to give full legal effect to this Section 7.1. Nothing in these Terms and Conditions shall be construed as conferring any right, title or interest in the IP to the Client. The Client shall only acquire those rights of use that are explicitly granted to the Client in the Agreement. Any rights of use granted to the Client shall be non-exclusive, non-transferable, non-sublicensable, limited and freely revocable.

7.2 The Client agrees not to disparage the value of, remove, modify, or amend (or arrange for the removal, modification, or amendment of) any IP that is developed or made available to the Client under the Agreement. Even if the Agreement does not explicitly provide for such authority, Agile Cockpit shall be permitted to install technical provisions for the purpose of protecting the software, hardware, data files, websites and alike in relation to an agreed restriction on the content or the term of the right of the Client to use such IP. The Client shall, under no circumstances, remove or circumvent such technical provisions or arrange for the removal or circumvention to be carried out.

- 7.3 To the best knowledge of Agile Cockpit its software, websites, data files, hardware or other materials do not infringe intellectual property rights of third parties. Agile Cockpit shall indemnify, defend and hold harmless the Client against any claims that the IP or other materials developed by Agile Cockpit infringes the intellectual property rights of any third party. The Client agrees to promptly notify Agile Cockpit in writing upon receiving notice of any such claim. The Client agrees that Agile Cockpit shall solely control the defense or settlement of such claim and shall provide Agile Cockpit with the powers of attorney, information and cooperation that it requires to defend itself, and where necessary in the name of the Client, against these claims. This obligation to indemnify the Client shall not apply if the alleged infringement relates to (i) materials made available to Agile Cockpit by the Client for the purpose of use, adaptation, processing or incorporation, or (ii) changes made by Agile Cockpit, or by a third party on behalf of the Client, to the IP without Agile Cockpit's prior written consent.
- 7.4 The Client warrants that no rights of third parties preclude the provision to Agile Cockpit of software, hardware, material intended for websites (visual material, text, music, domain names, logos, hyperlinks etc.), data files or other materials, including draft materials, for the purpose of use, adaptation, installation or incorporation (e.g. in a website). The Client shall indemnify Agile Cockpit and its respective affiliates, from and against all claims by third parties based on the assertion that such provision, use, adaptation, installation or incorporation constitutes an infringement of any rights of the third party in question.
- 7.5 Agile Cockpit is never obliged to perform data conversion unless doing so has been explicitly agreed in writing by the parties.

## 8. Cooperation

- 8.1 The parties acknowledge that the success of activities in the field of information and communication technology generally depends on proper and timely mutual cooperation. In order to facilitate the proper execution of the Agreement by Agile Cockpit, the Client shall at all times provide Agile Cockpit with all personnel, and data or information that Agile Cockpit deems to be useful, necessary and desirable, and to give its full cooperation in a timely manner. All personnel, employees, and agents deployed by the Client shall have the necessary knowledge, expertise and experience.
- 8.2 The Client shall bear the risk of the selection, the use, the application and the management within its organisation of the software, hardware, websites, data files and other products and materials and of the services to be provided by Agile Cockpit. The Client shall arrange for the correct installation, assembly and commissioning and for the application of the correct settings to the hardware, software, websites, data files and other products and materials. The Client guarantees that all licenses or approvals that Agile Cockpit may require in relation to these resources shall be obtained.
- 8.3 If the Client fails to comply with Section 8.1, or if the Client fails to meet its obligations in any other way, Agile Cockpit shall be entitled to suspend the performance of the Agreement in part or in full (as applicable) and shall also be entitled to invoice the resulting costs in accordance with its standard rates, without prejudice to Agile Cockpit's right to exercise any other remedy available to it under law or equity.
- 8.4 The Client shall be solely responsible for selecting the correct resources for the purposes of fulfilling its obligations under this Section 8 and for ensuring that these are available in full and in a timely manner, with the exception of those facilities that fall under the direct use and management of Agile Cockpit. Agile Cockpit shall under no circumstances be liable for losses or costs arising as a result of transmission errors, breakdowns or the non-availability of the Client's resources or Agile Cockpit's facilities, unless, solely in the case of the non-availability of Agile Cockpit's facilities, the Client is able to demonstrate that such losses or costs are the result of intentional acts or deliberate recklessness on the part of Agile Cockpit's management.

## 9. Terms

- 9.1 If it has been agreed that the work under the contract is to be performed in phases, Agile Cockpit shall be entitled to postpone the start of a phase's work until the Client has approved the results of the preceding phase in writing. Agile Cockpit shall make reasonable efforts to comply to the greatest extent possible with the terms and delivery periods and/or dates and delivery dates, whether or not these are firm deadlines and/or dates that it has specified or that have been agreed between the parties. The interim dates and delivery dates specified by Agile Cockpit or agreed between the parties shall always apply as target dates, shall not bind Agile Cockpit and shall always be indicative.
- 9.2 Notwithstanding the above, Agile Cockpit shall not be bound by a date or delivery date or term or delivery period, whether or not final, if the parties have agreed an amendment to the content or scope of the contract, including, but not limited to, additional work, a change of specifications, or a change in approach with respect to performance of the contract, or if the Client fails to fulfil its obligations, either on time or in full, arising from these Terms and Conditions or any other Agreement. The need for or occurrence of additional work during performance of the Agreement shall never constitute a reason for the Client to give Agile Cockpit notice of default or termination, or to rescind the Agreement.
- 9.3 If the agreed upon delivery period is likely to be exceeded, Agile Cockpit and Client shall consult with each other about the consequences of the delivery period being exceeded in relation to further planning. Notwithstanding the preceding sentence, if the parties have agreed to firm deadlines and delivery periods, or dates and delivery dates, Agile Cockpit shall only be in default as a result of such period of time being exceeded after the Client has declared Agile Cockpit to be in default in writing and Agile Cockpit failed to remedy such default within thirty (30) days after receipt of such notice. The notice of default must describe the breach as comprehensively and in as much detail as possible in order to give Agile Cockpit the opportunity to respond adequately

## 10. Termination of the Agreement

- 10.1 Agile Cockpit may at any point in time immediately terminate the Agreement for any reason whatsoever upon written notice to the Client. Agile Cockpit shall have no obligation to state the reasons for such termination. All payments made to Agile Cockpit for services not yet preformed shall be refunded to the Client. The Client remains liable for any payments for services that were already delivered and performed prior to termination of the Agreement by Agile Cockpit.
- 10.2 Each party may terminate the Agreement immediately upon notice to the other party, if (i) the other party materially breaches any of its obligations hereof or in the Agreement; provided that the non-breaching party provides written notice to the other party (containing a detailed description of the breach) and the other party fails to remedy such breach to the non-breaching party's reasonable satisfaction within thirty (30) days after receiving such notice or (ii) the other party becomes insolvent or bankrupt (or becomes subject to any legal proceeding relating to insolvency, reorganization or the protection of creditors rights), assigns all or a substantial part of its business or assets for the benefit of creditors, or ceases to conduct business in the normal course. The Client's payment obligations and all other obligations to cooperate imposed on the Client or on a third party to be engaged by the Client shall in all cases be regarded as fundamental obligations arising from the Agreement. The Client remains liable for any payments for services that were already delivered and performed prior to termination of the Agreement and such payments shall remain due in full and shall become immediately due and payable at the time of termination.
- 10.3 Except in the event of uncured material breach, the Client shall under no circumstances be entitled to terminate an Agreement regarding the provision of services that has been entered into for a fixed term before the end of the term.
- 10.4 Upon termination in accordance with Section 10 of these Terms and Conditions, any rights granted to the Client in the IP shall immediately terminate.
- 10.5 The provisions of Sections 5, 7, 11, 14.1, 14.8, and the last sentence of Section 10.2 above shall survive the termination of the Agreement.

## 11. Liability

11.1 Subject to Section 11.3, in no event will the aggregate liability that Agile Cockpit, its subcontractors and their related persons may incur whether due to a failure to perform the Agreement or any other reason, explicitly including any failure to comply with a guarantee obligation agreed with the Client, exceed the sum stipulated for the delivery of services for the previous twelve (12) months (exclusive of VAT). Such liability shall be limited to direct damages only. This limitation of liability shall apply mutatis mutandis to Agile Cockpit's obligation to indemnify referred to in article 7.4. The total liability of Agile Cockpit for direct damage or loss, for any reason whatsoever, shall, however, under no circumstances exceed the price paid for the delivery of services for the period of the then running calendar year and shall in any case be limited to the maximum amount that in applicable cases will be paid by the insurance company of Agile Cockpit.

11.2 The liability of Agile Cockpit for indirect damage or loss, consequential damages, loss of profit, loss of savings, reduced goodwill, loss due to business interruption, loss as a result of claims from the Client's customers, loss in connection with the use of items, materials or software provided by third parties that Agile Cockpit is instructed to obtain by the Client, loss in connection with the engagement of secondary suppliers by Agile Cockpit at the Client's instructions, and any punitive or like damages shall be excluded and are expressly disclaimed. The liability of Agile Cockpit due to the scrambling, destruction or loss of data or documents shall also be excluded.

11.3 Sections 11.1 and 11.2 shall not apply if and in so far as the loss is the result of intentional acts or deliberate recklessness on the part of Agile Cockpit or its respective employees and contractors. Section 11.1 and 11.2 shall also not apply when and to the extent that applicable law requires liability beyond and despite the foregoing limitation and disclaimer.

11.4 Agile Cockpit warrants that it will use its commercially reasonable efforts to perform the services in a timely and workmanlike manner. Except where performance by Agile Cockpit is permanently impossible, Agile Cockpit shall only be liable as a result of a failure to perform an Agreement if the Client gives Agile Cockpit immediate notice of default in writing, setting a reasonable term in which the breach can be remedied but in any event not less than thirty (30) days, and Agile Cockpit still fails to meet its obligations after this period. The notice of default must contain a comprehensive and detailed description of the breach to ensure that Agile Cockpit has the opportunity to respond adequately. ALL OTHER WARRANTIES WHETHER EXPRESSED OR IMPLIED (INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR PARTICULAR PURPOSE OR NON-INFRINGEMENT) ARE HEREBY DISCLAIMED.

## 12. Force Majeure

12.1 If either party is prevented from fulfilling its obligations by reason of any supervening event beyond its control (including but not limited to legislative and/or political constraints relating to the manufacture, distribution and/ or sale of the products, war, national emergency, flood, earthquake, strike or lockout (other than a strike or lockout induced by the party so incapacitated)), the party unable to fulfil its obligations shall immediately give notice of this to the other party and shall do everything in its power to resume full performance.

12.2 On such notice being given, neither party shall be deemed to be in breach of its obligations under the Agreement or these Terms and Conditions.

12.3 If and when the period of incapacity exceeds three (3) months, then the Agreement and the applicability of these Terms and Conditions shall automatically terminate unless the parties first agree otherwise in writing.

**13. Additional Work**

13.1 If Agile Cockpit performs other services that fall outside of the content or scope of the agreed work and/or services at the request or with the prior consent of the Client, such work or services shall be paid for by the Client in accordance with the agreed rates. If no rates have been agreed, Agile Cockpit's standard rates shall apply. Agile Cockpit shall under no circumstances be obliged to comply with such an additional request, and when it does comply, it may require the Client to enter into a separate written agreement for this purpose.

**14. Miscellaneous**

14.1 In the exercise of their respective rights and the performance of their respective obligations hereunder and in the Agreement, the parties are and shall remain independent contractors. Nothing in these Terms and Conditions or the Agreement shall be construed: (a) to give one party the right or power to direct or control the daily activities of the other party, (b) to create the relationship between the parties of principal and agent, franchiser and franchisee, partners, joint-ventures, co-owners or otherwise as participants in a joint undertaking, (c) to authorize either party to bind the other party to, or assume or create, any contract and obligation of any kind, express or implied, on behalf of either party or to any other person, or (d) to waive any right, interest or claim that one party has against another party.

14.2 These Terms and Conditions shall inure to the benefit of and bind the successors and permitted assigns of the parties. None of the rights or obligations of the Client may be assigned to or assumed by any other person or entity without the written consent of Agile Cockpit. The Client acknowledges and agrees that Agile Cockpit may freely assign or transfer, in whole or in part, its rights and obligations hereunder so long as such assignment is to an affiliate or subsidiary of Agile Cockpit.

14.3 In the event that any provision of these Terms and Conditions and/or the Agreement is declared to be void, illegal or otherwise unenforceable, such provision shall be severed and shall not affect the validity of the remaining provisions and the parties shall negotiate about an amendment of the Terms and Conditions and/or the Agreement in good faith in line with the spirit and intent of such severed provision and of the Agreement and/or these Terms and Conditions.

14.4 The failure of any of the parties to enforce at any time or for any period of time any provision of these Terms and Conditions or the Agreement shall not be construed as a waiver of such provision or the right thereafter to enforce each and every provision herein or therein contained.

14.5 All notices required by, permitted by or made pursuant to these Terms and Conditions and the Agreement shall be in writing and shall be sent to the receiving party by facsimile, email, courier service, or by registered, first-class mail, return receipt requested and postage prepaid, to the address on file with the sending party, or at such other address as the receiving party may supply to the sending party in writing.

14.6 These Terms and Conditions and the Agreements set forth the entire understanding of the parties and supersedes all prior written agreements, arrangements and communications, whether oral or written, pertaining to the subject matter hereof. No waiver of any provisions of these Terms and Conditions or the Agreement shall be effective or enforceable unless agreed to in writing by each of the parties.

14.7 Agile Cockpit shall have the right to list the Client as one of its customers in public announcements and sales brochures provided the Client's name is no more prominently displayed than Agile Cockpit's other clients in such materials. The Client agrees it will reasonably cooperate in the issuance of a press release regarding the Client's relationship with Agile Cockpit when each significant Agreement is executed and again upon the completion of such Agreement, subject to the Client's prior written approval of such press release which will not be unreasonably withheld or delayed.

14.8 The Client agrees that during the term of the Agreement and for a period of two (2) years following its termination or expiration, it will not, directly or indirectly hire retain, solicit or otherwise engage the services of any person that was employed by Agile Cockpit or its contractors that the Client knew or had reason to know was engaged in the performance of the services under the Agreement.

### **15. Amendment of the Terms and Conditions**

15.1 Agile Cockpit may at any time amend these Terms and Conditions. Amendments to these Terms and Conditions will be promptly communicated to the Client. In the event that the Client does not agree to the amended Terms and Conditions it may terminate the Agreement upon three (3) months written notice to Agile Cockpit during which term the old Terms and Conditions will continue to apply. The notice of termination must be served within ten (10) days of the notification of the amendment of these Terms and Conditions. The last sentence of Section 10.2 of these Terms and Conditions shall apply to the termination of the Agreement in accordance with this Section 15.1.

### **16. Governing Law & Disputes**

16.1 These Terms and Conditions and the Agreements between Agile Cockpit and the Client shall be governed by the laws of the State of New York, without regard to its conflict of law provisions. Any disputes arising out of or in connection with these Terms and Conditions and the Agreements shall be exclusively adjudicated in the federal or state courts located in the County of New York in the City of New York.

## Consultancy Services

### 17. Working hours and rates

17.1 Unless agreed otherwise, solely with respect to the Consulting Services, the daily rates relate to a normal working day of eight hours, worked during normal working hours. In the event that the Consultant must carry out overtime, the following rates will apply for each hour worked in overtime:

- a) for overtime carried out on Monday through Friday, excluding official local Public Holidays: 150% of the applicable hourly rate per person, per overtime hour worked; and
- b) for overtime carried out on Saturday, Sunday or official local Public Holidays: 200% of the applicable hourly rate per person per overtime hour worked.

The daily rates for the Consultant Services shall also include and are based on travel to and from work (travel time and kilometres) from the Consultant's home to the (nearest) location of Client or as the case may be the location stated by Client insofar as this deviates from the (nearest) location of Client. Travel expenses (time and kilometres) to (an) other location(s) will be charged to Client.

When the nature of the work to be carried out requires overtime, or when overtime is requested by Client, Agile Cockpit will use reasonable commercial efforts to ensure that the Consultant carries out a reasonable amount of overtime. Any overtime will be performed after mutual consultation between Client, Agile Cockpit and the Consultant, and after Client's written permission.

### Agreement

- 17.2 Only after receipt of a signed Agreement will Agile Cockpit appoint a Consultant to perform the services.
- 17.3 Agile Cockpit retains the right to suspend the execution of the Agreement if Client at the commencement data has not confirmed the Agreement by means of a signature.

- 17.4 If the Agreement is executed on a project basis for which a number of part-days are agreed upon in the Agreement, Client must utilise the number of part-days during the term of the Agreement. If after expiry of the Agreement, a number of part-days still main, then these will be invoiced after the expiry of the Agreement on the basis of the rate stated in the Agreement.
- 17.5 If the Agreement is executed on the basis of maintenance, the deployment of the Consultant will depend on availability. Agile Cockpit retains the right to, at the time of request of deployment, assign a Consultant to be deployed. If Client wishes to deploy a certain Consultant, Client must send a written request for this to the deployed Consultant. Client acknowledges and agrees that after confirmation of the deployment of a Consultant by Agile Cockpit, it is not possible for Client to suspend and/or cancel the deployment.
- 17.6 No approval from the Client is required for taking days of leave by the Consultant. Agile Cockpit will consult with Client in order to coordinate the leave when possible.
- 17.7 Agile Cockpit will make reasonable endeavours so that the Consultant made available (including Consultants specifically requested for by Client) will be available for the duration of the Agreement, and will remain available for the work during the agreed term. Notwithstanding the foregoing, Agile Cockpit reserves the right, in its sole discretion and after notifying the Client, to replace any Consultant by one or more other persons with the same qualifications, should Client's original Consultant become unavailable.
- 17.8 If at any point in time during the performance of the Consultancy Services, Client notices or suspects that Agile Cockpit is proceeding from false assumptions, or as the case may be that Client realises the assignment is going in a wrong direction, Client will inform Agile Cockpit promptly of this in writing.
- 17.9 The Consultancy Services shall be delivered for the term set out in the Agreement.

17.10 Subject to Section 10 of these Terms and Conditions, each party can unilaterally terminate the Agreement before the end of the term if the performance of the Agreement can no longer take place such that a party is unable to perform any of its obligations under this Agreement, other than payment obligations, due to any cause beyond the reasonable control of such party (a force majeure event). This must take place in writing stating reasons, and with due regard of a notice period of 30 calendar days. Agile Cockpit retains the right to send an invoice for the activities carried out up to the moment of termination.

17.11 Client can request to extend the Agreement for a specific period. Agile Cockpit, upon agreeing to such extension in writing, will use reasonable endeavours so that the Consultant already made available to Client will also be available for the agreed upon extended period. Agile Cockpit will have the right to assign the Consultant to other potential assignment, if no later than 30 calendar days prior to the expiry of the Agreement it has not been agreed in writing that the Agreement is to be extended.

### **Time recording and invoicing**

17.12 The Consultant will, at the end of the month, or, if earlier, after the conclusion of the services in said month, submit to Client an overview of the actual hours worked for the benefit of Client, for Client's approval. This timesheet must be signed for approval by Client and returned to Agile Cockpit. If Client does not object to the timesheet within five working days, it will be deemed to have been approved.

After the approval of the timesheet, Agile Cockpit will send the invoice based on the approved timesheet and the agreed rates.

### **Personal data**

17.13 Client will only share the data that is necessary for the execution of the Agreement. All data input by the Client shared to Agile Cockpit will be the responsibility of the Client.