General Terms & Conditions

Deltanexx BV

1/04/2022

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Article 1.   GENERAL

1.1.

These general terms & conditions ("GTC") apply to the delivery of products, licenses and services by Deltanexx BV, with registered office at Sterrebos 68, 3512 Hasselt, Belgium, VAT BE0685.437.434 – RPR Antwerp, department Tongeren (hereinafter referred to as "Deltanexx") to the customer (hereinafter referred to as "Customer"). Deltanexx and Customer hereinafter referred to individually as "Party" and collectively as "Parties".

1.2.

Deltanexx has the right to modify these GTC by giving notice to Customer by a notification on the website www.deltanexx.be/av, on the invoice, or via e-mail. These modifications will enter into force one (1) month after such notice, unless another date has been specified. Customer is entitled to terminate the Agreement within one (1) month after the notice if the modifications are material and/or unreasonable onerous for Customer. In this case the Agreement will terminate at the time the modifications come into effect. This termination will not result in reimbursements of license, maintenance and/or any other fees to Customer. In the absence of a written, express objection against the announced modifications within the stated period Customer is deemed to have accepted the modifications.

Article 2.   DEFINITIONS

2.1.

In these GTC terms with initial capital letters shall have the following meaning: "Deltanexx Software": means Deltanexx standard software, including documentation, licensed to Customer by Deltanexx under the Deltanexx license terms; "Third Party Software": means third party software, including documentation, provided by Deltanexx and licensed to Customer by third parties under agreements accompanying such software; "Software": means Deltanexx Software and/or Third Party Software; "Non-standard Software": means modifications, additions or customizations to Software; "Services": means the services (if any) (the case being, consulting, analysis, creation or development of modifications, additions or customizations to Software, integration, implementation, training, project management, support, maintenance, hosting or the remote placing and maintaining at the disposal of Software via the internet or another network, and other services or advice) to be provided to Customer by or on behalf of Deltanexx in accordance with the terms of the Agreement and as set out in an Appendix or SOW; "SOW": an order, statement of work, proposal, change request, project charter, agreement, or similar document issued by Deltanexx containing the specific terms if Customer wants to license Software or contract for Services from Deltanexx; "Specifications": means the specifications as described in the Deltanexx materials that Customer receives in or with the Software; "Third Party Items": means services and/or items of equipment supplied by and/or maintained by third parties; "Providers": means Deltanexx's licensors, suppliers and subcontractors.

Article 3.   SOW - AGREEMENT

3.1.

If Customer wants to license Software or contract for Services from Deltanexx, Deltanexx will draft a SOW containing the specific terms and fees. Unless mentioned otherwise, a SOW has a validity period (within which acceptance must occur) of thirty (30) days.

3.2.

Upon acceptance (either explicitly, or implicitly by requesting Deltanexx to start providing the Software or Services) by Customer of the SOW within the validity period, an agreement ("Agreement") enters into force between the Parties. If the acceptance by Customer is made subject to a condition or assumption, no Agreement exists until Deltanexx accepts such condition or assumption in writing.

3.3.

An Agreement incorporates the terms and conditions of these GTC. In case of contradiction, the Agreement shall prevail over these GTC, which shall prevail over the request for proposal (if any) of Customer. Customer waives the applicability of his own terms & conditions. In case of a public tender, the GTC will only apply to the extent they are not in contradiction with, or do not contain a reservation with respect to the public tender documents.

Article 4.   FEES

4.1.

Any and all fees quoted by Deltanexx are estimates only and may in no event be regarded as binding on Deltanexx unless it is expressly stated that a price or an amount represents a fixed fee. The fees are based on the information available valid at the time of drafting the SOW, and, if applicable, on fees and conditions of licenses and services from Providers. If there are changes in this respect during the duration of the Agreement, Deltanexx reserves the right to adjust its fees in a proportionate manner, and Customer accepts this if this does not imply a price increase of more than 10%.

4.2.

Unless specified otherwise, fees exclude any taxes, duties, tariffs, levies or other governmental charges (including, without limitation, any value added taxes), travel/transportation, accommodation and living expenses, which will be billed to and paid by Customer.

4.3.

Deltanexx will deliver the Services within normal working hours (i.e. Monday to Friday between 8:30 am and 5:30 pm, excluding public holidays), unless otherwise agreed in writing. If the Services are delivered outside normal working hours, Deltanexx is entitled to charge the Services at standard hourly rate plus an additional 25% on weekdays till 21.00 h, 50% on weekdays after 21.00 h and Saturdays till 17.00 h, 100% on Saturdays after 17.00 h and on Sundays and public holidays.

4.4.

Travel expenses inside Belgium will be calculated at a fixed cost of 100 EUR. If Customer does not foresee parking space, the costs thereof will be charged at real cost.

4.5.

For services outside Belgium:

• Customer directly takes care of and pays for the flight, hotel and taxi, and aligns with Deltanexx to make sure that everything is in order in a timely manner (visa, …). If Deltanexx has to take care of this, an administrative cost of 100 EUR per booking will be charged;

• Travel by car (car and parking costs) will be charged at real cost;

• Travel time (both directions) will be charged at 70% of the hourly rate;

• Inactive days (being days, including weekends, between working days) will be charged at 70% of the hourly rate (8 hours per day);

• Out of pocket" expenses will be charged at the daily lump sum per person at the most recent tariff "daily lump sum Category 1, Federal Public Service Foreign Affairs" ("indemnité forfaitaire journalière Catégorie 1, Service public fédéral Affaires étrangères") as published in the Belgian Official Journal.

4.6.

Deltanexx is entitled to adjust fees agreed upon with Customer on an annual basis. The fee changes will be communicated to Customer in good time. Customer expressly declares that he agrees with these fee increases, when they are in line with and do not exceed the formula $Fn = Fo (0,2 + 0,8 (Sn/So))$ (where Fn = new fee; Fo = old fee; Sn = reference wage costs (national average – wages and social charges) as last published by the technology industry federation Agoria, preceding the adaptation of the fee; So = reference wage costs (national average – wages and social charges) published by Agoria, valid for the month preceding the entering into force of the Agreement). In the event of fee increases that exceed the aforementioned indexation formula, Customer is entitled to terminate the Agreement by notifying Deltanexx by registered mail within one (1) month after the fee increase was announced. If Customer does not respond to an announced increase within the aforementioned period of one (1) month Customer is deemed to have accepted the new fee.

Article 5.   INVOICING & PAYMENT TERMS

5.1.

Fees for Software and lump sum Services will be invoiced in advance. Deltanexx reserves the right to only deliver the Software or Services upon receipt of the advance payment. Services on time & materials basis will be invoiced on a bi-weekly or monthly basis after delivery of the related Services. The fees are due and payable irrespective whether or not Customer uses the Software or Services.

5.2.

Any objections against invoices must be communicated to Deltanexx within 5 days after receipt of the invoice otherwise Customer will be deemed to have approved the invoice. When Customer disputes only part of the invoice, he does not have the right to postpone payment of the undisputed amounts.

5.3.

The Customer must make payments in EUR within 7 days (for Software licenses) or 30 days (for Services) after the invoice date. In the event of late payment, default interest will be charged according to the Belgian Law of August 2nd, 2002 regarding measures against the payment arrears in commercial transactions, as of the due date. The amount will also be increased with 10%, with a minimum of 150 EUR. Non-payment of a single invoice makes all other invoices, whether already due or not, immediately payable. Deltanexx is entitled to suspend any obligation pursuant to the Agreement until such time as Customer has paid all outstanding amounts in full. With respect to the amounts owed by Customer, as well as the dispatch of the invoice, the relevant documents and data from Deltanexx's administration or systems shall constitute sufficient evidence, without prejudice to Customer's right to produce evidence to the contrary.

5.4.

Deltanexx has the right to send its invoice electronically. Customer shall provide (and update if necessary) a correctly functioning e-mail address to which the electronic invoice can be sent. An electronic invoice will be considered correctly received by Customer on the same day it is sent to this e-mail address.

5.5.

In case of serious doubts about the solvability of Customer, Deltanexx will have the right to request a supplemental payment security, and meanwhile to suspend further performance of the Agreement.

Article 6.   PERFORMANCE

6.1.

Subject to Customer's payment of all fees, costs and expenses as they become due, Deltanexx will use reasonable care and skill in delivering the Software and/or Services in accordance with the Agreement.

6.2.

The parties expressly agree that all delivery and implementation times are target dates and are therefore not binding on Deltanexx, unless otherwise expressly agreed in writing. The reason for this is that Deltanexx also depends on input and co-operation of Customer and of third parties. Delays in delivery and implementation may never give rise to any fine, compensation or dissolution of the Agreement.

6.3.

Deltanexx's delivery of the Software and/or Services is conditional upon Customer's active involvement in the delivery. Customer shall; (i) provide Deltanexx with all necessary, accurate and complete information (e.g. about his system, his working methods and his objectives), in writing and in a timely manner; (ii) contribute to the

planning of the work; (iii) if applicable, at his own expense make the necessary facilities available to Deltanexx, including but not limited to parking space, suitable working space (with sufficient light and air), electricity, communication means (including the possibility to connect to the Deltanexx server), access to Customer's IT installation and databases (to the extent necessary for the performance of the Agreement); (iv) if necessary, grant Deltanexx authorization and access in order to perform Services outside normal business hours and; (v) assign necessary and qualified resources internally in order for the Software and/or Services to be delivered as agreed. Customer acknowledges that the replacement or unavailability of resources in his project organization, may lead to longer execution times and, as a consequence, higher costs.

6.4.

The Customer acknowledges that the performance of the Agreement may in certain cases lead to the temporary unavailability of parts of the operational environment. In such case, Deltanexx will discuss this with Customer.

6.5.

In the event that Deltanexx is unable to deliver the Software and/or Services and this is due in whole or in part to Customer, Customer's other suppliers and/or any third party delay and/or nonperformance of their obligations, Deltanexx is entitled to invoice Customer a fee for the time that Deltanexx employees or consultants cannot be deployed (it being understood that in such a case, Deltanexx will use reasonable endeavors to assign any unoccupied staff to other assignments).

6.6.

During the term of the Agreement, each Party may request in writing to add or modify the scope or nature of the Services or Software. Deltanexx will have no obligation to agree to such change request as long as there is no agreement between the Parties on the price and impact of such change request. Deltanexx is entitled to invoice the time spent on the analysis of a change request on time & materials basis.

Article 7. ACCEPTANCE

7.1.

Software and/or Services must be inspected and tested by Customer as soon as possible upon delivery, and are considered successfully delivered and accepted at the first of the following moments: (1) Customer's signature of the acceptance document; or (2) if Customer has not refused acceptance in writing and sufficiently motivated within 15 days after delivery, or upon the go-live if a go-live procedure has been agreed in writing between the Parties; or (3) the use in an operational or production environment of the Software and/or Services by Customer.

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Article 8.   SOFTWARE WARRANTY

8.1.

De Software is complex computer software. Its performance will vary depending on hardware platform, software interactions, and Software configuration. The Software is neither fault tolerant nor free from errors, conflicts or interruptions. Customer accepts the Software in the condition it is in on the date of delivery ('as is').

8.2.   Third Party Software

Third Party Software and Items are subject to the warranty, if any, including any limitations and exclusions provided by such third party supplier or Provider. Deltanexx does not provide any additional warranties.

8.3.   Deltanexx Software

The standard version of the Deltanexx Software is subject to the following limited warranty: if Customer follows the instructions, the Software will perform substantially to the Specifications. The limited warranty covers the Software for one year after acquired by the first user. If Customer receives supplements, updates, or replacement software during that year, they will be covered for the remainder of the warranty or 30 days, whichever is longer. If the first user transfers the Software, the remainder of the warranty will apply to the recipient. This warranty does not cover problems caused by Customer's acts (or failures to act), the acts of others, or events beyond Deltanexx's reasonable control. Remedy for breach of warranty: Deltanexx will repair or replace the Software at no charge. If Deltanexx cannot repair or replace it, Deltanexx will refund the license amount paid by the Customer. Deltanexx will also repair or replace supplements, updates and replacement software at no charge. If Deltanexx cannot repair or replace them, it will refund the license amount Customer paid for them, if any. In that case the Customer must uninstall the Software and return any media and other associated materials to Deltanexx.

8.4.   Non-standard software

The Non-standard Software is subject to a warranty period of 90 days after (i) acceptance by Customer, or (ii) the go-live if a go-live procedure has been agreed between the Parties. During this warranty period Customer must make sufficient and in-depth use of the Non-standard Software and check whether it conforms to the Specifications. A defect will be deemed to exist if the Non-standard Software does not substantially conform to the Specifications and this failure to conform to the Specifications is solely attributable to Deltanexx. Deltanexx is in its sole discretion entitled to (i) remedy defects; (ii) perform replacement delivery; (iii) grant a proportionate reduction of the fee payable; or (iv) pay a reasonable compensation to Customer, and always subject to the limitations and exclusions otherwise set out in the Agreement and always provided that Customer has notified Deltanexx of the defect. Customer is only entitled to make claims against Deltanexx to the extent that (i) Non-standard Software is deemed defective and (ii) Customer was unable to detect this in connection with the inspection and test of the Non-standard Software in accordance with article 7.1. Any claims concerning the Non-standard Software must be made immediately after the defect has been detected and within the aforementioned 90 days warranty period. Claims must be made in writing with a comprehensive and detailed description of the defect, in order to ensure that Deltanexx has the opportunity to respond adequately.

8.5.

The warranty will not apply to the extent there has been accident, abuse or use in a manner inconsistent with the Agreement, modification, unsuitable physical or operating environment, operation in other than the specified operating environment, improper maintenance or intervention by Customer or a third party, or failure caused by a software or product for which Deltanexx is not responsible

8.6.

Except as expressly provided in the Agreement no warranty, condition, undertaking or term, express or implied, statutory or otherwise as to the condition, quality, performance, fitness for purpose or non-infringement of the Software shall be given or assumed by Deltanexx or its Providers and all such warranties, conditions, undertakings and terms are excluded.

Article 9.   SUPPORT & MAINTENANCE

9.1.   Support

Support services (meaning the provision of telephonic, written and/or electronic helpdesk support relating to the use and functioning of the Software) are subject to a separate support agreement. Should Customer request support services while not having signed a support agreement, Deltanexx will make an offer and support will only be delivered after approval thereof by Customer.

9.2.   Maintenance

Provided Customer has paid the maintenance fee, Deltanexx will make the versions released by Deltanexx or by its Providers in the framework of their update or maintenance service (e.g. Microsoft Enhancement Plan, software assurance), available to Customer as from their release. All related services (e.g. installation, implementation, integration, training, …) with respect to these versions are not included in the maintenance fee, and are subject to an separate SOW to be agreed between the parties. The maintenance fee is payable irrespective of whether Customer uses the Software.

9.3.

Deltanexx is never obliged to provide maintenance services if Customer has not contracted such services. Maintenance is essential for some modules of the Software. Customer is aware that the continued proper functioning of the Software is not possible without maintenance and that errors and/or defects may occur without such maintenance. Deltanexx accepts no liability for any damages whatsoever resulting from the use of the Software for which maintenance is deemed essential if Customer has not contracted such services in respect of this Software

Article 10.   RESPONSIBILITY OF THE CUSTOMER

10.1.

Customer declares to know the Software and its possibilities. Customer must determine for itself that the Software and/or Services are suitable for Customer's use and that the Software and/or Services perform acceptably on the hardware from which Customer will access them, including by conducting sufficient testing (including failure mode and effects analysis). Customer is responsible for the selection, purchase, installation, maintenance and operation of the environment including equipment, operating system, database, third party software and network which the Software shall operate and will enter into appropriate support and maintenance agreements with suppliers of such services. Customer has the responsibility to make sure that the equipment complies with the operating requirements for the Software as may be specified by Deltanexx from time to time.

10.2.

Customer is responsible for the correct use and application of the Software and Services provided by Deltanexx, and the implementation of the required procedures in his organization.

10.3.

It is the responsibility of Customer to secure his system (hardware and software). Customer must make regular backups of all data files that are generated, used and/or applied with the Software.

10.4.

Customer will provide every hardware with a virus scanner. Customer warrants that all hardware, software and other business means he uses, are validly acquired, licensed and used, and that he has all necessary rights, and he will hold Deltanexx harmless in that respect. If it has been agreed that Customer will provide Deltanexx with materials or data by means of third-party information carriers, these information carriers must meet Deltanexx's specifications for the activities in question and be free of any hidden risks such as viruses, worms, Trojan horses, logic bombs etc.

10.5.

Before disposing of any data support or hardware, Customer will see to it that any Software that is included is erased or deleted

10.6.

Customer must keep his database technically up-to-date. All Deltanexx objects with modifications must be consistently implemented. Customer has to confirm towards Deltanexx when an object "goes live". Only then can new objects be delivered.

10.7.

If no explicit agreements have been made in this regard, Customer itself shall install, set up and parameterize the Software and adapt the hardware used, other software and operating environment where necessary, train the users, and carry out data conversion.

10.8.

Deltanexx shall not be responsible for checking the accuracy and completeness of the results and the data generated through the use of the Software and/or Services. Customer itself shall regularly check this, and take necessary measures for the purpose of preventing and limiting the consequences of interruptions or shortcomings in the Software and/or Services, the scrambling or loss of data or other incidents. Under no circumstances shall Deltanexx be responsible for the recovery of scrambled or lost data.

Article 11. IPR - RIGHT OF USE – DELTANEXX SOFTWARE & NON-STANDARD SOGTWARE

11.1.

Customer acknowledges and accepts that all intellectual property rights relating to the Deltanexx Software, Non-standard Software (both referred to as "Software" in this clause) and/or the Services, the designs, documentation and any other materials developed or used in preparation or execution of the Agreement, or resulting therefrom, belong exclusively Deltanexx or its Providers. Customer undertakes to undertake nothing that may impair this, even after the end of the Agreement.

11.2.

Subject to Customer's payment of all fees, costs and expenses, Customer receives a non-transferable and non-exclusive license to use, reproduce and install the Software in a machine readable object code form, for his own internal business purposes only.

11.3.

If Customer complies with the Agreement, he has the rights below for each license he acquires for the Software.

11.4. Licensing

The Software is licensed based on (i) the number of copies that Customer installs on premises or uses on a hosted basis; (ii) the number of Customer's users that access the Software; and (iii) additional components Customer licenses. Customer must order and maintain a sufficient number of licenses to cover his use, in accordance with the chosen license model.

11.5. License Model

The Software is licensed under two models:

- *Perpetual License Model*

  Under this model, Customer has licensed the Software under perpetual license terms, as code that is installed on Customer's premises or hosted for Customer by a third party acting as Customer's agent ("Perpetual License Model"). Customer's rights to use the Software are perpetual but may be revoked if Customer does not comply with the terms of the Agreement.

- *Subscription License Model*

Under this model, Customer has licensed the Software on a per user or per device basis for a limited period, as further described in the SOW. The Software may be installed on Customer's premises with day to day management and control solely by Customer, or hosted by any third party providing services to Customer ("Subscription License Model"). If Customer's license expires or terminates, Customer's right to use the Software will stop immediately. If Customer continues using the Software after that, Customer could be held liable for infringement of intellectual property rights, which could result in significant damages being assessed against Customer or other legal remedies.

11.6.   Modification Disclamer

Customer may modify the Software only as necessary to use it for his internal business purposes if Customer received it in source code form or Customer or any third party acting on Customer's behalf have licensed tools from Deltanexx that allow Customer or that third party to modify the Software's object code. Customer agrees that Deltanexx is not responsible for any problems that result from modifications made by Customer, a partner, or any other third party acting on Customer's behalf, or any problems that are caused by third party hardware or software. Deltanexx does not, and will not have any obligation to, provide technical or other support for any modifications to the Software made by Customer, by a partner or by any other third party. Deltanexx does not make any representation, endorsement, guarantee or assurance of the suitability of the Software for Customer's business, the suitability of the partner or any other third party to create modifications or to implement the modifications or the Software, or that any modification created, implemented, supported and/or serviced by, for or on behalf of Customer or any third party will meet Customer's business needs or operate successfully with the Software.

11.7.   Product/License keys

The Software may require a key to run or access it. A key may only be used to run or access the particular version of the Software for which it was issued. Customer is responsible for the use of keys assigned to him. Customer must not duplicate or share the keys with third parties.

11.8.   Scope of license

The Software is licensed, not sold. Customer may use the Software only as expressly permitted in the Agreement. In doing so, Customer must comply with any technical limitations in the Software that only allow Customer to use it in certain ways. Customer may only use the Software for his internal business purposes (meaning managing Customer's business, but not that of an independent third party). Customer may not (i) work around any technical limitations in the Software; (ii) reverse engineer, decompile or disassemble the Software, except and only to the extent that applicable law expressly permits, despite this limitation; (iii) circumvent the validation functions of the Software; (iv) publish the Software for others to copy; (v) sell, rent, lease or lend the Software; or (vi) use the Software for commercial software hosting services. Customer's rights to use the Software may be revoked if he does not comply with the terms of the Agreement.

11.9.   Backup copy

Customer may make multiple copies of the Software for backup, development and testing purposes, so long as such copies are not used in production and the development or testing is for Customer's internal business purpose only. Customer's backup copies may be hosted by a third party on his behalf.

11.10. Defense of infringement claims

Deltanexx will defend Customer against any claims made by an unaffiliated third party that the Software infringes its patent, copyright, trademark or trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which Deltanexx consents). Customer must notify Deltanexx promptly in writing of the claim and give Deltanexx sole control over its defense or settlement. Customer agrees to provide Deltanexx with reasonable assistance in defending the claim, and Deltanexx will reimburse Customer for reasonable out of pocket expenses that Customer incurs in providing that assistance. Deltanexx's obligations will not apply to the extent that the claim or adverse final judgment is based on (i) Customer's use of the Software after Deltanexx notifies Customer to discontinue use due to such a claim; (ii) Customer's combining the Software with a non-Deltanexx product (hardware, software or service), data or business process including third party add-ons or programs; (iii) damages attributable to the value of the use of a non-Deltanexx product, data or business process; (iv) Customer altering or modifying the Software, including any modifications by third parties; (v) Customer's distribution of the Software to, or its use for the benefit of, any third party; (vi) Customer's use of Deltanexx trademark(s) without express written consent to do so; or (vii) for any trade secret claim, Customer acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than Deltanexx or its affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. Customer will reimburse Deltanexx for any costs or damages that result from these actions. If Deltanexx receives information concerning an infringement or misappropriation claim related to the Software, Deltanexx may, at its expense and without obligation to do so, either (i) procure for Customer the right to continue to run the Software, or (ii) modify the Software or replace it with a functional equivalent, to make it non-infringing, in which case Customer will stop running the Software immediately. If, as a result of an infringement or misappropriation claim, Customer's use of the Software is enjoined by a court of competent jurisdiction, Deltanexx will, at its option, either procure the right to continue its use, replace it with a functional equivalent, modify it to make it non-infringing, or refund the amount paid and terminate this license. If any other type of third party claim is brought against Customer regarding Deltanexx's intellectual property, Customer must notify Deltanexx promptly in writing. Deltanexx may, at its option, choose to treat these claims as being covered by this section. This section provides Customer's exclusive remedy for third party copyright, patent or trademark infringement and trade secret misappropriation claims.

11.11.

Customer will not (and will not permit others to) use the Software in any way: (1) that infringes a third party's patent, copyright, or trademark or misappropriates or makes unlawful use of its trade secret (or other undisclosed information) or violates applicable law; (2) to violate the rights of others; (3) to try to gain unauthorized access to or disrupt any service, data, account, or network by any means; (4) to falsify any protocol or email header information (e.g., "spoofing"); (5) to spam or distribute malware; (6) in a way that could harm the Software or impair anyone else's use of them; or (7) for any high risk use (where failure or fault of the Software could lead to death or serious bodily injury, or to severe physical or environmental damage, such as for use in controlling operation of equipment in any nuclear facilities, aircraft navigation, aircraft communications or flight control systems, air traffic control, medical equipment (FDA class 2 or 3, or equivalent), or weapons systems).

11.12.

Because certain third party license terms require that computer code be generally (i) disclosed in source code form to third parties; (ii) licensed to third parties for the purpose of making derivative works; or (iii)

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redistributable to third parties at no charge (collectively, "Open Source License Terms"), the license rights granted to any computer code (or any intellectual property associated therewith) do not include any license, right, power or authority to incorporate, modify, combine and/or distribute that computer code with any other computer code in a manner which would subject the other's computer code to Open Source License Terms

Article 12.   IPR – RIGHT OF USE – THIRD PARTY SOFTWARE

12.1.

To the extent that the Software and/or Services include Third Party Software or Items, separate terms and conditions for Customer's use of such Third Party Software or Items may apply. Consequently, Customer accepts that he shall only acquire a right to use such Third Party Software or Items in accordance with the license terms and conditions stipulated by such third party (e.g. Microsoft). Customer declares he has been able to take note of said license terms and conditions in full and in good time.

Article 13.   PERSONAL DATA

13.1.

In principle no data files are transferred from Customer's system to Deltanexx. Customer keeps data files on a location Deltanexx can have access to, and from which these data files can be directly imported into Customer's test and live environments. If however the provision of Services under the Agreement necessitates the transfer to and processing by Deltanexx of personal data, Appendix 1 to these GTC shall apply between the Parties. This Appendix - Data Processing Agreement and its annexes set forth the terms and conditions pursuant to which personal data will be transferred and processed in the framework of the Agreement. Customer shall as much as possible anonymize or pseudonymize the personal data before transferring them to Deltanexx.

13.2.

Insofar as with the use of the Software personal data are processed this is done at the full responsibility and liability of Customer.

Article 14.   LIABILITY OF DELTANEXX

14.1.

Deltanexx's total aggregated liability for any and all claims including damages and penalties, whether based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory, is in all cases, to the extent permitted by applicable law, limited to the compensation of the actual damages that are the immediate and direct consequence of Deltanexx's own gross negligence, and may never exceed the lowest of the following amounts:

- 50% of the total aggregate amount paid for the Software or Services (in the 12 months before the applicable claim arose in case of recurrent fees) that have caused the damages (decreased with the amounts invoiced for Third Party Software and Items - these have also been paid by Deltanexx to these third parties); or
- 250.000 euro.

14.2.

Under no circumstances is Deltanexx liable for loss of profit, loss of, or damage to data, loss of business opportunities, revenue, goodwill, customers (including damage to the reputation or image), anticipated savings, or any special, incidental, consequential, exemplary or indirect damages.

14.3.

The liability limitations in this article are not applicable in case of willful misconduct or fraud by Deltanexx.

14.4.

Deltanexx is only responsible for the Software and/or Services delivered by Deltanexx and Deltanexx will thus under no circumstances be liable for defects, delays, failure to perform its obligations or for any other matters under any agreements concluded between Deltanexx and Customer to the extent that such are in whole or in part caused by (i) Customer's negligence or non-compliance with the Agreement; (ii) Customer's other suppliers or other third parties related to Customer; (iii) Customer's use or exploitation of the Software and/or Services in a different manner than contemplated; (iv) modifications by Customer or Customer's other suppliers or other third parties related to Customer; (v) computer viruses, hacking, trojan horses, spyware, interference with technical protection measures originating from another source than Deltanexx; and (vi) losses covered by an insurance taken out by Customer or in favor of Customer.

14.5.

The Agreement has been entered into solely between Customer and Deltanexx. Customer agrees not to let third parties make use of the Software and/or Services without the prior written consent of Deltanexx. Deltanexx will not be liable to any third parties for Software and/or Services supplied under the Agreement. Customer hereby indemnifies Deltanexx against any such third party claim, complaint, loss, harm, damage, expense or other consequence, including any legal costs incurred by Deltanexx.

14.6.

Claims for damages which are not claims for defects shall be time barred one year after the earlier of (i) acceptance by Customer of the Software and/or Services in question or (ii) the end of the Agreement.

14.7.

Third Party Software and Items are subject to the same limitations and exclusions as made by such third parties and Providers in addition to the limitations and exclusions set out in this clause.

Article 15. TERM AND TERMINATION

15.1.

The Agreement will remain in force until Deltanexx has delivered the Software and Services unless terminated or canceled earlier in accordance with the following clauses.

- Customer may cancel an Agreement against payment of the following termination fee:
    - 25% of the agreed or estimated total fee (as applicable) for the Services for termination no later than 10 working days before the agreed commencement date.
    - 50% of the agreed or estimated total fee (as applicable) for the Services for termination between 10 to 5 working days before the agreed commencement date.
    - 100% of the agreed or estimated total fee (as applicable) for the Services for termination later than 5 working days before the agreed commencement date.
    - 100% of the agreed or estimated total fee (as applicable) for the Services, less the amounts already paid by Customer, for termination after the commencement date.
    - If Customer requests to suspend the delivery of all or part of the Services, Deltanexx shall be entitled to invoice a redundancy fee for any unoccupied consultants, and if such suspension exceeds a duration of 6 months, Deltanexx will be entitled to consider such suspension as a total or partial termination. In this case, the abovementioned termination fee is due.
- The Agreement, to the extent it applies to Third Party Software or Items, may be terminated by Deltanexx at any time with immediate effect if Deltanexx loses its right to offer such Third Party Software or Items.

15.2.

Unless specified otherwise, if the Agreement concerns the ongoing delivery of Services (including but not limited to hosting, maintenance, support, subscription based licenses), the Agreement will have a duration of 12 months, and is thereafter tacitly renewed for successive 12 months periods unless either Party terminates the Agreement by registered letter at the latest three (3) months before the end of the current period.

15.3.

Deltanexx may terminate the Agreement, or suspend the delivery of Services, including the right of use of the Software, if Customer is in material breach or default of any obligation that is not cured within 14 calendar days following Deltanexx's notice to Customer of such breach.

15.4.

The Agreement may be terminated for convenience by Deltanexx at any time by giving Customer 30 days prior notice.

15.5.

The Agreement will be terminated automatically upon the bankruptcy of Customer. Deltanexx will have the right (to the extent permitted by the applicable insolvency laws) to terminate the Agreement immediately by written notice to Customer and without judicial intervention, if Customer becomes insolvent or an order is made or a resolution passed for the liquidation, administration, winding-up or dissolution of Customer, or a liquidator,

administrator, or similar officer is appointed over all or any substantial part of the assets of Customer or anything similar to the foregoing occurs in any applicable jurisdiction.

Article 16.   CONSEQUENCES OF TERMINATION

16.1.

Termination of the Agreement will not affect the accrued rights or liabilities of the Parties as at the date of termination or any obligations which expressly or by implication are intended to come into or continue in force on or after termination.

16.2.

Upon termination of the Agreement, Customer's right to use the Deltanexx Software under a Subscription License Model (SAAS) will stop immediately.

16.3.

Upon termination of the Agreement, Customer's further right to use the Third Party Software under a Perpetual License Model or Subscription License Model (SAAS) is subject to the terms & conditions and procedures of such third party supplier or Provider (e.g. Microsoft COCP).

16.4.

Upon termination of the Agreement, Customer's right to use the Deltanexx Software under a Perpetual License Model continues, always in accordance with the license terms in article 11, and provided Customer has paid all due amounts. In case of switch to another partner, Deltanexx will have no further obligations regarding support or maintenance. No reimbursement will be made of any prepaid fees (e.g. enhancement plan).

Article 17.   RIGHT TO VERIFY COMPLIANCE

17.1.

Customer is required to keep records relating to the Software Customer uses under the Agreement. Deltanexx has the right to verify compliance with the Agreement, at Deltanexx's expense. Customer agrees to provide reasonable cooperation in the event of a compliance audit. Deltanexx may request that Customer grants his consent to allow access to the usage information captured by the system database as a tool in conducting the audit.

17.2.

Verification will take place upon not fewer than 30 days' notice, during normal business hours and in a manner that does not interfere unreasonably with Customer's operations. As an alternative, Deltanexx can require Customer to complete a self-audit questionnaire relating to the Software Customer uses under the Agreement, but reserves the right to use a verification process as set out above.

17.3.

If Deltanexx undertakes verification and does not find material unlicensed use (license shortage of 5% or more), Deltanexx will not undertake another verification of the same entity for at least one year. Deltanexx and Deltanexx's auditors will use the information obtained in compliance verification only to enforce Deltanexx's rights and to determine whether Customer is in compliance with the terms of the Agreement. By invoking the rights and procedures described above, Deltanexx does not waive its rights to enforce the Agreement or to protect its intellectual property by any other means permitted by law.

17.4.

If verification or self-audit reveals any unlicensed use, Customer must promptly order sufficient licenses to cover his use. If material unlicensed use is found, Customer must reimburse Deltanexx for the costs Deltanexx has incurred in verification and acquire the necessary additional licenses at standard license cost within 30 days.

17.5.

Deltanexx's Providers shall have the right to enforce this clause.

Article 18.   MICROSOFT

18.1.

With respect to Third Party Software or Items ordered from Microsoft, Microsoft will be third party beneficiary of the Agreement. Microsoft will have the right to: (i) enforce the Agreement; (ii) verify Customer's compliance with the Agreement; and (iii) contact Customer directly

18.2.

Customer authorizes Deltanexx to share information with Microsoft that is necessary for Deltanexx: (i) to collaborate with Microsoft, and (ii) for Customer to receive licenses and services and communication from Microsoft.

18.3.

Customer acknowledges that Microsoft has no responsibility for the non-Microsoft parts of the Software or any effect they have on the functionality of the Microsoft software or Customer's systems, business or operations.

Article 19.   FORCE MAJEURE & HARDSHIP

19.1.

Neither of the Parties may be held liable for any delays or failures in performance (excluding payment of any fees and costs) attributable to force majeure, including, but not limited to war, riots, rebellion, general strike, fire, natural disasters, import or export bans, disruption of ordinary traffic, transport and communication, interruption

of or faulty energy supply, internet, computer networks or telecom facilities, delivery problems with respect to suppliers, long-term illness of key consultants, comprehensive virus or occurrence of force majeure in relation to subcontractors.

19.2.

The Party invoking force majeure is obliged to inform the other Party about the starting date of such force majeure and will also inform the other Party when the force majeure comes to an end. The obligations of both Parties will be suspended for the duration of the force majeure. In case the force majeure lasts for more than two months both Parties have the right to terminate the Agreement by registered letter, without any compensation being due.

19.3.

If the continued performance of its contractual obligations has become excessively onerous due to an event beyond its reasonable control which it could not reasonably have been expected to have taken into account at the time of the conclusion of the Agreement and which it could not reasonably have avoided or overcome, Deltanexx has the right to request to negotiate alternative contractual terms. If, within a reasonable time of such request, the Parties do not reach an agreement on alternative contractual terms, Deltanexx is entitled to terminate the Agreement.

19.4.

On-site services: Customer shall be responsible for the health and the safety of the Deltanexx collaborators; Customer shall provide, free of charge to Deltanexx, a safe working environment which complies with the requirements generally set for the proper execution of the services, and safety instructions, training and safety equipment if the circumstances make such provision necessary. Deltanexx reserves the right not to send its collaborators to a location where their personal safety is endangered. Deltanexx shall have the right to delay or cancel any visit or mission for safety or security reasons or political instability in the country or region of destination if such travel advisory has been issued by public, independent or specialized organizations.

Article 20. GENERAL

20.1.

"Confidential Information" includes technical, financial or commercial information concerning Deltanexx, including any information of any type or form whatsoever which is disclosed in the context of the execution of a project or order under the Agreement, whether or not forming part of the Software or Services. Unless written permission has been obtained from Deltanexx, Customer undertakes (i) not to use, reproduce or distribute Confidential Information, directly or indirectly, verbally or in writing, outside the context of the Agreement, (ii) to take all necessary measures to avoid the Confidential Information from being disclosed to anyone whosoever, except for his staff members who need to know it for the implementation of the Agreement and who are made aware of the obligation of confidentiality, and (iii) to return the Confidential Information and all copies thereof upon first request by Deltanexx. This obligation of confidentiality shall not apply if Customer can furnish proof, either that the information came from the public domain or that the information was already known by him or

that he obtained it legally from a third party without any obligation of confidentiality. This obligation of confidentiality shall remain valid for a period of 5 years after the termination of the Agreement.

20.2.

During the term of the Agreement and for a period of one year after the end thereof, Customer will not directly or indirectly solicit, induce, recruit, encourage or otherwise endeavor to cause or attempt to cause any employee, manager, collaborator or consultant of Deltanexx to terminate their relationship with Deltanexx. Customer will not, directly or indirectly, award contracts to these people. Violation of this provision shall entitle Deltanexx to liquidated damages against Customer equal to one hundred (100) percent of the solicited person's annual (gross) compensation.

20.3.

Customer cannot transfer his rights or obligations under this Agreement without Deltanexx's consent. Deltanexx shall have the right to transfer all or part of its rights and obligations under this Agreement upon written notice to Customer.

20.4.

Customer consents to Deltanexx's use of Customer's name and logo and a factual description of the Services delivered by Deltanexx under this Agreement in Deltanexx's advertising and promotional materials, and as a reference towards other (potential) customers

20.5.

The Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes and replaces all prior agreements or understandings, whether written or oral, with respect to the same subject matter that are still in force between the Parties.

20.6.

The Agreement is governed by and must be construed in accordance with the laws of Belgium. The UN Convention on Contracts for the International Sale of Goods ("CISG") will not apply.

20.7.

If any dispute arises between the Parties out of or with respect to this Agreement, this will preferably be settled amicably. The most diligent Party will inform the other Party by registered letter of the (supposed) existence of a dispute, after which consultations between the two Parties will be initiated. If no amicable settlement can be reached within two (2) months following the aforementioned registered letter, the most diligent Party may bring the dispute before the courts of Leuven (or if copyright law is involved, Brussels), which are exclusively competent to judge disputes arising from this Agreement. The aforementioned period of two (2) months shall not apply if it is a claim for interim measures (injunction) or for the collection of undisputed invoices.

Appendices

Appendix 1 – Data Processing Agreement.