

## 1. OBJECT

The object of these General Terms and Conditions is to set out the respective obligations of ACTIVSKEEN and the Client (jointly, "the Parties") and the conditions under which ACTIVSKEEN will provide the advisory services ("the Services") set out in the technical and financial proposal signed between the Parties ("the Proposal").

Acceptance of ACTIVSKEEN's offer or the signing of the Proposal shall result in the application of these General Terms and Conditions. Any derogation herefrom established in an order shall only be deemed to have been accepted by ACTIVSKEEN if the latter's agreement is set down in writing and appended to the Proposal.

## 2. CONTRACTUAL DOCUMENTS

The Proposal and these General Terms and Conditions (collectively, "the Services Agreement") shall constitute the contractual agreement existing between ACTIVSKEEN and the Client in relation to the Services and shall replace all prior agreements and commitments, whether set out in writing or orally, express or tacit.

These General Terms and Conditions exclude the Client's General Terms and Conditions of Purchase, even where these appear on any order form accepted by ACTIVSKEEN.

In the event of any discrepancy between these General Terms and Conditions and the Proposal, the General Terms and Conditions shall prevail, unless an express derogation herefrom is specifically identified as such in the Proposal and specifies the clause in the General Terms and Conditions that is derogated from.

Any change, however minor, to the Services Agreement, as well as the provision of any supplementary services, shall require the prior written agreement of the Parties, formalised either in an addendum to the Proposal or, if appropriate, in a new Proposal setting out the changes made and their impact on the Services, the time schedule, the budget or the other terms and conditions set out in the Proposal.

## 3. PERFORMANCE OF THE SERVICES

The nature of the Services as well as the commitments undertaken by ACTIVSKEEN, including in terms of the time schedule, are described in the Proposal.

The estimated turnaround times for the provision of services and completion of studies set out in the Proposal are indicative only and shall not be binding on ACTIVSKEEN.

ACTIVSKEEN shall assign to performance of the Services a team with the requisite skills and the necessary tools and materials, in line with best industry practices.

## 4. EFFECTIVE DATE - TERM

The Services Agreement shall come into effect on the date on which the Proposal is signed or on the date on which the Services commence should this predate the Proposal. Subject to the surviving express or implicit terms and conditions, on expiry or termination of the Services Agreement, the Agreement shall remain in effect for the duration of the Services as laid down in the Proposal; that duration may be extended or changed in accordance with Article 2, paragraph 2, below.

## 5. COOPERATION

The Client shall cooperate with ACTIVSKEEN and provide it, in due time, with the data, information, documents and other elements necessary for performance of the Services.

In addition, the Client shall comply with the time schedule given in the Proposal and shall be responsible for ensuring that its employees, sub-contractors or third parties do likewise.

In certain cases, in providing its services, ACTIVSKEEN may, or must, be required to coordinate with other advisory services or engineering work throughout the successive study or project completion phases in order to contribute thereby to effective risk and contingency management and to safeguard the completion deadline, cost and quality of the works to be performed. The Client shall ensure that the proper coordination of all the parties involved in performance of the Services Agreement so that all data, information, documents and other elements necessary for performance of the Services are made available to ACTIVSKEEN in due time and by the appropriate deadlines.

On becoming aware of any event that may affect performance of the Services, the time schedule or the fees, the Client shall notify ACTIVSKEEN by any written means and without delay.

## 6. FEES

The fees for the Services and the terms and conditions for invoicing are laid down in the Proposal and do not include any costs or VAT. The fees do not include any travel, food and accommodation costs.

## 7. COSTS

Travel, food and accommodation costs incurred by ACTIVSKEEN in performing the Services shall be itemised and seven percent (7%) will be added to cover any incidental costs; these costs shall be invoiced separately. The Client may, on request, obtain a copy of the supporting documents for these costs.

VAT will be added to the costs at the rate prevailing on the invoice date.

## 8. PAYMENT TERMS AND CONDITIONS

Invoices must be paid by bank transfer to the following account within forty-five (45) days, at the latest, of the date on which the invoice is issued:

CREDIT AGRICOLE CIB  
IBAN FR76 3148 9000 1000 2596 4746 647  
BIC BSUIFRPP

In accordance with Article L. 441-6 of the Commercial Code, any payment in arrears and/or any sum due, payable but yet not paid shall result, automatically and without notice being served, in the application of interest on the arrears until payment is made. That interest shall equate to the European Central Bank funding rate plus ten points. Any payments made before the due date shall not result in any rebate or discount.

Payment may not be deferred on any ground whatsoever, including in the event of any litigation as referred to in Article 21.

In the event of a failure to pay by a due date, ACTIVSKEEN reserves the right to terminate the contract automatically if no positive response is received within eight (8) days of a demand being sent to the Client by registered letter. This shall be without prejudice to all other damages and interest and procedural costs, including costs incurred by ACTIVSKEEN to collect sums due, and without the Client being entitled to claim any compensation.

In the case of instalment payments, non-payment of an instalment shall result in the entire debt falling due immediately without prior notice being served.

Amounts relating to Services already performed by ACTIVSKEEN shall be due and payable.

## 9. DELIVERABLES

The documents (i.e. memoranda/lists of decisions/minutes/reports/any electronic documents) documenting the Services are set out in the Proposal ("the Deliverables").

The Deliverables and the annexes thereto shall form an indissociable whole.

In the absence of a specific clause, the date for provision/delivery of the Deliverables, as laid down in the Proposal, shall correspond to the Services completion date.

The Deliverables shall supersede all other information given on the project. All interpretation, reproduction or use, in full or in part, by another developer or builder or any other third party, notably for a project that is different or differs from that for which the study is performed, shall not invoke the liability of ACTIVSKEEN.

## 10. INTELLECTUAL PROPERTY

On full payment of the sums due to ACTIVSKEEN for the Services performed and subject to the provisions of Article 11 below, the Deliverables developed by ACTIVSKEEN for the exclusive use of the Client as part of the Services shall be the property of the Client.

ACTIVSKEEN shall remain the owner of the Deliverables until full payment of the services provided.

After submission of the Deliverables, ACTIVSKEEN reserves the right to add the results obtained to its database and to make use of this information, subject to processing the confidential information of the Client in accordance with Article 12 below.

The Parties agree that the ownership and use of intellectual property rights, including patents, trademarks, designs and models and know-how developed in performing the Services shall be the subject of a contract negotiated and concluded under reasonable market conditions.

No person or entity other than the Client may use and/or exploit the Deliverables, Services or any recommendation made by ACTIVSKEEN without the latter's prior agreement. The Client shall hold ACTIVSKEEN harmless and indemnify it for all damage, losses, injury, costs or claims (including reasonable legal fees) arising from (i) any use by third parties of the Deliverables, Services or recommendations of ACTIVSKEEN, (ii) any use by the Client of the Deliverables, Services or recommendations of ACTIVSKEEN under conditions different from those specifically authorised in the Services Agreement, and (iii) any non-compliance with the terms and conditions of the Services Agreement by the Client.

## 11. MATTERS PROTECTED BY ACTIVSKEEN

Notwithstanding any provision to the contrary:

(i) all procedures, methods, management tools, manuals, software, databases, concepts, ideas, inventions or know-how, trademarks, slogans, trade names and product names, irrespective of whether or not they can be protected under intellectual property law, that are developed, created or acquired by ACTIVSKEEN, or by its third-party suppliers, prior to or independently from performance of the Services or in any other manner ("the Protected Matters"), are and shall remain the exclusive property of ACTIVSKEEN or its third-party suppliers; and,

(ii) the Client shall not have, or benefit from, any rights over the Protected Matters other than a limited and non-exclusive right to use the Protected Matters included in the Deliverables for internal use only under the terms and conditions explicitly laid down in the Proposal.

## 12. CONFIDENTIALITY

For the purposes of providing the Services, a Party ("the Recipient Party") may gather or have access to information and matters belonging to the other Party ("the Disclosing Party"), including information and matters relating to third parties that are in the possession of the Disclosing Party and that are deemed to be confidential and exclusive (collectively, "Confidential Information"). The Recipient Party may not divulge or make available to any other person or entity any Confidential Matter belonging to the Disclosing Party, nor may it use any Confidential Information belonging to the

Disclosing Party for any purpose whatsoever, except in the following cases: (i) with the specific written authorisation of the Disclosing Party; (ii) the Recipient Party may disclose Confidential Information and make it available to its employees, associated consultants and sub-contractors solely on a need-to-know basis for the purpose of provision of the Services; (iii) the Recipient Party may use the Confidential Information of the Disclosing Party for all practical purposes in order to meet the needs of the Services.

The Client also agrees that data, other than Confidential Information, provided to ACTIVSKEEN by the Client or on the latter's behalf, pursuant to the Services Agreement may be used by ACTIVSKEEN for the purposes of comparative evaluations, provided that in so doing (a) that information is used strictly for the purposes of comparative evaluation, (b) that information is used in a manner that does not divulge the Client's identity to third parties.

Notwithstanding any provision to the contrary, the Client accepts that ACTIVSKEEN may include the Client's trade name and/or trademark and logo, as well as a general description of the type of services provided to the Client, in communication media or proposals for services sent to prospective clients provided this is done with the sole aim of making reference to the Client as the beneficiary of the services of ACTIVSKEEN and without any other reference to the Confidential Information of the Client.

Each Party shall comply with this confidentiality clause for the duration of the Services that are the subject of the Proposal and for a period of three (3) years from the date on which the Services end.

## 13. NON-EXCLUSIVITY

The Parties acknowledge that, unless otherwise specified in the Proposal, the Services Agreement shall not prevent either of the Parties from contracting with any third parties operating in the same industrial field as the other Party, subject to compliance with the Confidentiality requirements laid down in Article 12 above.

## 14. NON-PROSPECTING OF STAFF

For the duration of the Services and for a period of one (1) year after the date on which the Services end, irrespective of the ground therefor, the Client shall not, directly or indirectly:

a) contract or enter into a relationship (in any capacity whatsoever) with any ACTIVSKEEN employee who is involved, or was involved in the previous year, in performance of the Services; or,

b) solicit, induce or persuade any ACTIVSKEEN employee who is involved, or was involved in the previous year, in performance of the Services to resign from his or her position with ACTIVSKEEN.

Should the Client not comply with this obligation, it shall pay to ACTIVSKEEN an indemnity equal to the gross remuneration and salary paid to the employee concerned in the six months preceding his or her departure.

## 15. TRANSFER

Subject to the provisions of this article, neither Party may not transfer all or some of its rights and obligations under the Services Agreement without the prior written agreement of the other Party, which agreement may not be unduly refused.

However, either Party may assign the Services Agreement to its subsidiaries, designating any company, grouping or entity it controls, is controlled by or which is under the same control as itself within the meaning of Article L. 233-3 of the Commercial Code, ("Subsidiaries") provided, however, that the assignor continues to be jointly and severally liable for proper performance by the assignee of its obligations under the Services Agreement.

## 16. LIABILITY

The liability of ACTIVSKEEN is that of a provider of advisory services subject to a best-efforts obligation, the study being based on a limited amount of information as transmitted by the Client.

The liability of ACTIVSKEEN for any direct damage sustained by the Client as a direct consequence of a failure or wrongdoing on the part of ACTIVSKEEN in performing the Services shall not exceed, for the duration of the Services, the total amount paid by the Client to ACTIVSKEEN for the Services performed pursuant to the Proposal.

ACTIVSKEEN shall be relieved of liability automatically in the event of force majeure, unforeseen events, such as the occurrence of special natural circumstances, and any cause that is not attributable to ACTIVSKEEN for which the Client or third parties are accountable that changes the conditions of performance of the works that are the subject of the order or that renders the works impossible.

ACTIVSKEEN is unable to guarantee the accuracy of results that are based on climatic data given their fluctuations, interannual variations, long-term changes and the level of uncertainty of measurements.

The liability of ACTIVSKEEN may not be invoked in the event of damage to works in the event that it is not informed, in advance and in writing, of their presence or precise location. ACTIVSKEEN may not be held liable for indirect losses or damage, such as loss of income, commercial injury, loss of business, delay, loss of clients, operating losses or other damage sustained by the Client or any person or entity associated with the Client, even if that damage results from the use of the Deliverables provided by ACTIVSKEEN. In addition, ACTIVSKEEN shall not be liable for damage or loss resulting from communication by the Client or any third parties of false, misleading or incomplete information.

In the event that one or more Subsidiaries are authorised, in accordance with the Services Agreement, to receive a Deliverable, the ceilings on liability set out in this article shall be shared between the Client and those Subsidiaries. It is agreed that any such sharing out shall be the responsibility of the Client and the Subsidiaries.

Notwithstanding the above, ACTIVSKEEN shall only be liable for any claims resulting or that may be linked to the Services Agreement if the Client serves the claim within six months at the latest of becoming aware (or of when it should reasonably have become aware) of non-compliance by ACTIVSKEEN with its contractual obligations and/or of the damage resulting from performance of the Services.

## 17. FORCE MAJEURE

The Parties shall not be held liable for delays or non-performance of their obligations under the Services Agreement that are caused by a force majeure event.

Force majeure events means, as defined in Article 1218 of the Civil Code, events that are beyond the control of either Party that could not reasonably have been foreseen on the conclusion hereof and the effects of which cannot be avoided by appropriate measures, thereby preventing performance by that Party of its obligations. If the impediment is temporary, performance of the obligation is suspended unless the resulting delay justifies termination of the contract. If the impediment is definitive, the contract is automatically terminated and the parties are discharged from their obligations under the conditions laid down in Articles 1351 and 1351-1 of the Civil Code.

## 18. SUSPENSION/TERMINATION

Termination of the contract shall result in payment in full of the services properly performed by ACTIVSKEEN up to the date of termination, as well as the payment of a penalty corresponding to 20% of the fees before tax that would have been received if the service had been performed for the full term.

If the Client breaches any of its obligations under the Services Agreement, ACTIVSKEEN may immediately suspend the Services, in full or in part, and/or terminate all or part of the Services Agreement within five (5) days of a recorded-delivery letter being sent by ACTIVSKEEN to this end.

Termination of the Services Agreement shall not affect the surviving clauses, expressly or tacitly, on termination of the Services Agreement.

## 19. NOTIFICATIONS

All correspondence or notifications pursuant to the Services Agreement shall be deemed to have been validly addressed if it is delivered by hand and countersigned or if sent by (i) e-mail with acknowledgement of receipt, or (ii) express international courier, or (iii) recorded-delivery letter:

(a) in the case of ACTIVSKEEN, sent for the attention of the officer who signed the Proposal;

(b) in the case of the Client, sent for the attention of the officer who countersigned the Proposal.

Notifications shall be deemed to have been delivered on the date of their first presentation to the Party notified.

## 20. COMPLIANCE

Each Party shall comply with the national, European and international legislative and regulatory provisions applicable to its business, including the standards of the International Labour Organisation and the provisions of the French Criminal Code on financial and economic crimes and offences.

## 21. CHOICE OF FORUM AND APPLICABLE LAW

The Services Agreement is governed by and shall be interpreted in accordance with French law.

In the event of any conflict with a Client that is a subsidiary of the VINCI Group, internal arbitration shall be undertaken.

Any conflict or dispute with a Client not forming part of the VINCI Group that results from, or is linked to, the Services Agreement, including any issue relating to its existence, validity, enforceability, interpretation, performance or non-performance, must first be submitted to the legal representatives of each of the Parties with the aim of reaching an out-of-court settlement. If the Parties are not able to resolve the dispute amicably within thirty (30) days of discussion of an out-of-court settlement, the dispute shall be brought before the Nanterre Commercial Court by either Party; this court shall have sole jurisdiction, notwithstanding any clause to the contrary or joinders of actions.