

TERMS AND CONDITIONS

FACTS CONSULTANCY VOF

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THESE TERMS AND CONDITIONS GOVERN YOUR ACQUISITION AND USE OF OUR SERVICES. IF YOU REGISTER FOR A FREE TRIAL FOR OUR SERVICES, THE APPLICABLE PROVISIONS OF THESE TERMS AND CONDITIONS WILL ALSO GOVERN THAT FREE TRIAL. BY ACCEPTING THESE TERMS AND CONDITIONS, EITHER BY CLICKING A BOX ON OUR WEBSITE INDICATING YOUR ACCEPTANCE OR BY SIGNING A QUOTE THAT REFERENCES THESE TERMS AND CONDITIONS, YOU AGREE TO THESE TERMS AND CONDITIONS. IF YOU ARE AGREEING TO THESE TERMS AND CONDITIONS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THESE TERMS AND CONDITIONS AND MAY NOT USE THE SERVICES.

You may not access the Services if you are a direct competitor of FACTS Consultancy, except with our prior written consent. In addition, you may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

These Terms and Conditions were last updated on January 1st, 2022, and is effective between you and FACTS Consultancy as of the date of you accepting these Terms and Conditions.

1 DEFINITIONS

In these Terms and Conditions and all other contractual documentation referenced herein, the following words and expressions shall have the following meaning:

Affiliate:	includes, in relation to either Party, each and any subsidiary or holding company of that Party and each and any subsidiary of a holding company of that Party;
API:	Application Programmable Interface. A set of clearly defined methods for communication between various software components.
Business Day:	a day other than a Saturday, Sunday or public holiday in the Netherlands when banks in Amsterdam are open for business;
FACTS Consultancy Customer:	FACTS Consultancy VOF or one of its subsidiaries or related parties; the Party contracting with FACTS Consultancy as identified in the Service Agreement;
Data	any data, documents or database(s) made available to Customer by FACTS Consultancy through one or more Services;
Fee:	monies and other consideration (one time or recurring) Customer is obligated to pay to FACTS Consultancy for the right to use the Service;
Initial Term:	minimum initial contract period for the Service to be provided by FACTS Consultancy;
Personnel:	persons employed, contracted or subcontracted by each of the Parties;
Quote:	standard form (electronic or paper) including Services, prices and terms and used for the ordering of Services. A signed Quote forms a Service Agreement between FACTS Consultancy and Customer.
Renewal Term:	contract period following completion of the Initial Term for which a Service is renewed as defined in the Service Agreement.
Result	any and all output or results of the Service, such as but not limited to search results, reports, etc;
Terms and Conditions	these terms and conditions which form an integral part of the Service Agreement;
User	any user of the Service appointed by Customer as user and accepted by FACTS Consultancy as user;
Service:	the services provided by or on behalf of FACTS Consultancy to Customer, as described in the Service Agreement, including the Software and /or Equipment made available by FACTS Consultancy to Customer to consume these services;
Service Agreement:	any agreement concluded between FACTS Consultancy and Customer for the delivery of one or more Services, including annexes to the agreement and any related service description(s);
Service Term:	individually and collectively the Initial Term and Renewal Terms, if any;
Software:	such software as in connection with a Service is used by FACTS Consultancy, and/or made available by FACTS Consultancy to Customer, regarding a Service, including but not limited to any portals, tooling, interfaces, etc.

2 GENERAL

- 2.1 These Terms and Conditions shall apply to all offers, legal relationships and agreements under which FACTS Consultancy provides Services or delivers Equipment of whatever nature to Customer. If any provision of these Terms and Conditions is null and void or annulled, the other provisions of these Terms and Conditions shall remain in full force. The applicability of Customer's term and conditions or any other terms or conditions is specifically excluded.
- 2.2 In addition to these Terms and Conditions, specific Service related additional terms and conditions as specified in a Service Agreement or service description may apply. Customer shall accept both the Terms and Conditions and the additional terms and conditions before FACTS Consultancy provides the Service.



- 2.3 In the event of any inconsistency between the Service Agreement, annexes thereto and these Terms and Conditions, the order of precedence shall be (1) the Service Agreement, (2) Annexes to the Service Agreement such as but not limited to service descriptions, and (3) these Terms and Conditions. Should any contradiction appear between the provisions of different documents, it is expressly agreed that those defined in the highest ranked document will prevail.
- 2.4 The obligations and responsibilities of FACTS Consultancy under any Quote or Service Agreement are solely to Customer and not to any third party.
- 2.5 Customer guarantees all information supplied by Customer or by any party on its behalf on which FACTS Consultancy has based its offer to be complete and accurate.

3 PRICING, PAYMENT

- 3.1 All Fees shall be exclusive of turnover tax (VAT) or other similar applicable taxes and are due after the Service is completed or monthly, in advance of the provision of the Service, unless explicitly mentioned otherwise. Any usage-based charges and charges based on times and material rates shall be invoiced monthly in arrears. All Fees must be paid in Euros unless stated otherwise.
- 3.2 Customer shall pay all invoices within 14 (fourteen) calendar days after the invoice date by transferring the invoiced sums into the relevant bank account designated on the invoice. FACTS Consultancy reserves the right to charge:
 - (i) a pro-rated interest of 5% (five percent) per month on all invoiced amounts which remain unpaid after such 14 (fourteen) calendar days period, and
 - (ii) all reasonable collection costs including but not limited to reasonable legal expenses. Customer shall be entitled to partially withhold payment of an invoice, which Customer disputes in good faith, provided however that Customer shall notify FACTS Consultancy in writing, within 7 (seven) calendar days of the invoice date, of the dispute and of the grounds thereof, the amount and all other information relevant to the dispute, and provided that Customer shall only be entitled to withhold payment up to the amount disputed in good faith by Customer. Disputes shall be resolved promptly and the resolved amount, if any, shall be payable within 7 (seven) days after resolution. Interest will accrue from the due date on subsequent payments of amounts withheld or credits on overpayments refunded. FACTS Consultancy' records provide conclusive evidence of any amounts owed, without prejudice to the right of Customer to provide evidence to the contrary.
- 3.3 Without prejudice to any other provision of the Service Agreement, FACTS Consultancy reserves the right to treat failure to pay by Customer as a material breach of the Service Agreement. Additionally, FACTS Consultancy at its sole discretion and subject to 14 (fourteen) days prior notice to Customer, reserves the right to:
 - (i) restrict, suspend or terminate provision of the relevant Services and FACTS Consultancy shall be released from its obligations under the Service Agreement with respect to such Service until any balance due is paid or until such other material breach is remedied; and/or
 - (ii) as an exception to Clause 4 (Duration, Termination, Suspension), terminate the Service Agreement without liability to or right to compensation for Customer and without prejudice to FACTS Consultancy' rights to be paid sums due; and/or
 - (iii) recover any Equipment; where such recovery takes place, Customer shall pay to FACTS Consultancy such reasonable recovery charges (including de-installation charges) as may be specified in the service description(s) or as otherwise notified by FACTS Consultancy to Customer.

4 DURATION, TERMINATION, SUSPENSION

- 4.1 Service Agreements are concluded for an Initial Term of 12 (twelve) months and a Renewal Term of 12 (twelve) months unless agreed otherwise, as long as Services are being provided by FACTS Consultancy to Customer.



- 4.2 Unless agreed otherwise in the Service Agreement, Services may be terminated, subject to providing written notice of such termination to the other Party at least 1 (one) month prior to the termination date, such termination to be effective at the end of the Initial Term or at the end of a Renewal Term. Customer further agrees to incur all Fees for the full Initial Term or Renewal Term regardless of any premature cancellation.
- 4.3 Either Party may immediately, by written registered notice, terminate the Agreement and all Services under it, if one of the following events occurs:
- (i) Material Breach. The other Party materially breaches the obligations of the Service Agreement and fails to remedy such material breach within 30 (thirty) calendar days after receipt of written notice specifying the material breach and requiring it to be remedied;
 - (ii) Force Majeure. An event as set forth in Clause 9 (Force Majeure) prevents the performance of the whole or a substantial part of the other Party's obligations in relation to that Service for a continuous period of 30 (thirty) days after the date on which it should have been performed. In such case, no damages shall be due;
 - (iii) Regulatory authority. Any governmental or regulatory authority with competence and/or jurisdiction over the Parties decides that the provision of the relevant Service under the Service Agreement is contrary to existing laws, rules, regulations or any decision, law or other official governmental order, makes the provision of the Service illegal. In such case, no damages shall be due;
 - (iv) Regulatory requirement. Any of the authorizations or regulatory formalities required was or is not obtained, is withdrawn or is no longer valid for whatever reason (other than due to the negligence or wilful misconduct of a Party);
 - (v) Bankruptcy. The other Party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or compositions with or assignment for the benefit of its creditors, or if any of its assets are the subject of any form of seizure, or goes into liquidation or if a receiver or administrator is appointed over its assets;
 - (vi) Non-payment. In circumstances described in Clause 3.3 (Failure of payment).
- 4.4 FACTS Consultancy shall be entitled forthwith and without prior notice to suspend the provision of part or all of the Services and (where applicable) to disconnect, switch off, block access to and/or remove Equipment, including its data and / or cables, in the following occasions:
- (i) in the event of Customer fails to meet its obligations under the Service Agreement.
 - (ii) If one of the events as described in Clause 4.3 occurs;
 - (iii) if and in so far as FACTS Consultancy (a) is requested to do so by a governmental or regulatory authority, (b) is required to do so to comply with a change in statutory or regulatory requirements (or enforcement thereof) or (c) is required to do so pursuant to an order of a court;
 - (iv) if the safety of persons or property is (or is threatened to be) adversely affected by the conduct of Customer or its Personnel;
 - (v) in case of an emergency. Customer shall be obliged to pay all Fees payable throughout the period of suspension as referred to this Clause.
- 4.5 The suspension referred to in Clause 4.4 shall be lifted within 1 (one) Business Day after the grounds giving rise to the suspension have ceased to exist. FACTS Consultancy shall then have the right to claim, and Customer shall pay upon demand, any reasonable reconnection charges incurred by FACTS Consultancy when lifting the suspension and resuming the provision of the Service(s).

5 USE OF SERVICE

- 5.1 FACTS Consultancy will make efforts to ensure the Service performs properly and seek the maximum possible availability, quality and security of the Service. All Services shall



be performed on the basis of an obligation to use best endeavours unless Supplies expressly in writing promised a specific result.

- 5.2 FACTS Consultancy can make changes to the content or scope of the Service. FACTS Consultancy reserves the right to alter the technical and functional properties of the Service in the interim to improve it and to repair any defects or to comply with the applicable legislation and regulations. FACTS Consultancy may at all times update or upgrade any Software.
- 5.3 FACTS Consultancy is not obliged to preserve, change or add particular properties or functionalities of the Service specifically for Customer, unless agreed otherwise in writing.
- 5.4 Customer and/or User will not publish, reproduce or otherwise disclose Data and/or any other information such as Results that FACTS Consultancy provides through the Service, without the prior express written consent of FACTS Consultancy, other than for use in Customer's internal business operations. Customer shall not commercially exploit any Data or Results or use any Data or Results commissioned by third parties.
- 5.5 FACTS Consultancy may for preventive, corrective or adaptive maintenance or other forms of service take the Service temporarily wholly or partially offline. FACTS Consultancy shall limit the period of inactivity as much as possible and will if reasonably possible arrange for it to take place outside office hours.
- 5.6 If and to the extent FACTS Consultancy with respect to the Service grants access to information sources of third parties, it will not be responsible for the accessibility, accuracy and completeness of information of third parties of Customer, nor for the proper operation and content of linked websites, including but not limited to all links on websites, changes to location codes or URLs of documents, or changes to Software of third parties used by Customer. FACTS Consultancy notes that, if and to the extent there is any direct access to third party websites as described in this article, the conditions imposed by these third parties for the access to and the use of the information sources will also apply to the access and use of Customer. To the extent these conditions deviate from the conditions used by FACTS Consultancy, the conditions of the third party in relation to the direct access and use will prevail.
- 5.7 Any service level provisions regarding a Service shall only be expressly agreed in writing. Customer shall inform FACTS Consultancy without delay about any circumstances that affect or that could affect the service level and the availability of the Service. If agreements about a service level have been made, the availability of Services, Equipment, Software and related services shall always be measured such that unavailability due to preventive, corrective or adaptive maintenance or other forms of service announced by FACTS Consultancy in advance and circumstances beyond FACTS Consultancy' control are not taken into account. The availability measured by FACTS Consultancy shall count as conclusive evidence, subject to evidence to the contrary produced by Customer.

6 ACCESS TO SERVICE

- 6.1 Most Services are provided to Customer online through the portal(s) of FACTS Consultancy and/or by API's. The Service is only available for the number of Users specified in the Service Agreement (and any added Users during the Service Term) using the login credentials provided by FACTS Consultancy. Only Users, to the extent employed by Customer or in any other way inseparably connected to Customer, may use the Service and these Users may only be replaced with the prior written permission of FACTS Consultancy.



- 6.2 FACTS Consultancy may at any time block access of Customer or any User in the event of (suspicion of) violation of any of the provisions of the Service Agreement. FACTS Consultancy shall not be liable for any damage suffered by Customer and/or third parties arising from such blocking access.

7 SERVICE GUARANTEE

- 7.1 FACTS Consultancy does not guarantee that the Service is free of errors nor that Services function without interruption. FACTS Consultancy will make efforts to fix errors within a reasonable period of time if and in so far as it is Software, Equipment, hardware or infrastructure developed or built by FACTS Consultancy itself and the defects concerned have been reported to FACTS Consultancy by Customer and logged by FACTS Consultancy as a case. FACTS Consultancy may, if necessary, postpone fixing of the defects and/or errors until a new version of the Service shall be put in operation. FACTS Consultancy does not guarantee all defects and errors to be fixed. FACTS Consultancy is entitled to install temporary solutions or workarounds or problem-avoiding restrictions for an impacted Service.
- 7.2 In case of a Service error, degradation or interruption, FACTS Consultancy shall not be obliged to recover or reconstruct any data that has been lost.
- 7.3 Customer in any event guarantees that Customer and Users at all times comply with the following rules:
- (i) Customer ensures the adequate protection of its hardware, software, infrastructure and internet connection from viruses, computer crime and (other) unlawful use by Customer, Users or third parties;
 - (ii) Customer and/or Users shall not spread any (computer) viruses or other files that may disrupt, interrupt or damage the Service or its operation.
 - (iii) Customer and/or Users shall not perform any acts that may disrupt or damage the Service, Software, Equipment or any related networks or infrastructures;
 - (iv) Customer and/or Users shall not in any way infringe intellectual property rights of FACTS Consultancy and/or third parties;
 - (v) Customer may not modify, remove or bypass the security of the Service and the information sources provided through the Service, including Software, Equipment and any other hardware used to this end.

8 FORCE MAJEURE

- 8.1 A Party shall not be held liable for failure to perform any of its obligations (with the exception of the obligation to make payments) under the Service Agreement if such failure is caused by or arises as a result of an event of force majeure including, not limited to, the following examples (provided these examples were not caused or made possible due to the negligence of such Party): pandemonium, fire, flood, strike, cable / fibre cuts, lightning, power failures, Internet, data network or telecommunication facilities failures, acts of God, changes of the regulatory environment, acts of governmental or military authorities, civil unrest, terrorism and war.
- 8.2 The Party victim of a force majeure event shall as soon as reasonably possible notify the other Party about the occurrence of such event and the estimated extent and duration of its inability to perform its obligations under the Service Agreement.
- 8.3 In the event of the occurrence of a force majeure event, the Party victim of the force majeure event shall use all reasonable endeavours to minimise the effects related.
- 8.4 In case a force majeure situation lasts longer than 90 (ninety) days, each party is entitled to terminate the affected Service.

10 CONFIDENTIAL INFORMATION, AND PRIVACY

- 10.1 Each of the Parties warrants that all of the information received by the other Party, which is marked as confidential or reasonably can be assumed to be confidential, in nature shall remain secret for the entire duration of any Service Agreement and for a period of 1 (one) year thereafter. The Party receiving the confidential information shall only use it for the purpose for which it has been provided. Information shall in any event be considered confidential if it is designated by either of the Parties as such.
- 10.2 The obligation of secrecy referred to in clause 10.1 shall not apply to information which:
- (i) is already in the possession of, or which is previously known to, the receiving Party at the time of its receipt from the disclosing Party, other than by breach of the present obligation of secrecy;
 - (ii) is in or comes into the public domain other than by breach of the present obligation of secrecy;
 - (iii) is required by law, regulation or judicial order to be disclosed.
- 10.3 FACTS Consultancy may publicise the existence of the relationship between the Parties for the purpose of its marketing activities. Subject to the foregoing, neither Party shall make any press announcements concerning the Service Agreement or publicise this Service Agreement in any way without the prior written consent of the other Party.

11 INTELLECTUAL PROPERTY RIGHTS

- 11.1 Subject to the restrictions and terms set out in the Service Agreement, FACTS Consultancy and/or its suppliers grant to Customer for the Service Term a non-exclusive, nontransferable license to use the Software, Equipment or other materials provided under or in connection with the Service Agreement on an 'as is' basis for internal purposes only and in so far as is necessary to utilise the Service(s) provided thereunder.
- 11.2 All intellectual or industrial property rights to any Services, Software, Equipment and/or any thereto associated materials, documentation, as well as to Data and Results, provided to Customer under or in connection with the Service Agreement, shall solely be held by FACTS Consultancy or its suppliers. Customer shall not redistribute or resale, modify, reproduce or create any derivative works of the Service, the Software, Equipment, Data, Results and/ or any other materials and documentation.
- 11.3 All intellectual or industrial property rights to the Data remain at the entity or person that made the database(s), documents or other data available. Customer will not in any manner fully or partially publicize or reproduce, including storage in a computerised retrieval system, any Data without the prior written permission of FACTS Consultancy, any search result of the Services or any other data that results from the use of the Services.
- 11.4 FACTS Consultancy does not in any way guarantee to transfer any intellectual property rights to Customer based on Software, Equipment, Data, Results, websites, data files, or other materials such as analyses, designs, documentation, reports, proposals, as well as preparatory material thereof, unless expressly agreed in writing. Customer will only acquire the rights of use Page 5 of 5 expressly granted in any Service Agreement and under law. A right of use granted to Customer will be nonexclusive, non-transferable and no sub-licenses can be granted thereto.
- 11.5 Customer indemnifies FACTS Consultancy against any claims of third parties based on the argument that the use of Customer of Data, Results and any other documents or files through the Service infringe on any copyright, database rights or any other applicable intellectual or proprietary right.

12 LIABILITY, INDEMNIFICATION

- 12.1 In no event shall FACTS Consultancy or its partners or suppliers have any obligation or liability to Customer for direct, indirect incidental, or consequential damage, arising out of (a) the loss of (part of) Customer's data, (b) the use of the Service, or (c) the inability to use the Service
- 12.2 FACTS Consultancy is not liable for shortcomings in its offered Service. FACTS Consultancy does not provide any guarantees related to the Data, Results or any other information acquired through the Service, nor in respect of the use thereof by Customer and the consequences thereof. FACTS Consultancy specifically does not provide any guarantees in relation to the availability and/or accessibility of the Service and the completeness, relevance, accuracy and/or relevance of the Data, Results or any other information acquired through the Service.
- 12.3 Customer will defend, indemnify and hold FACTS Consultancy, including its parents, affiliates, subsidiaries, agents, officers, directors and employees, harmless from any claim or demand made by any third party due to or arising out of:
- (i) the use of the Services;
 - (ii) the acts or omissions of Customer, in connection with the installation, maintenance, presence, use, modification or removal of Equipment, online services or software;
 - (iii) any claims by third parties howsoever arising out of services that will be provided by Customer to such third parties based on one or more Services, or out of any false or misleading representations made by Customer with respect to the Services or Customer's relationship with FACTS Consultancy;
 - (iv) claims for infringement of any third party proprietary right, including copyright, patent, trade secret and trademark rights, arising from the use of any services, equipment and software not provided by FACTS Consultancy or of the improper use of Services, Software or Equipment provided by FACTS Consultancy;
 - (v) any non-compliance with any laws or regulations relating to ABC (Anti Bribery and Corruption), data privacy, international communication an exportation of technical data arising out or in relation to utilization of the Services;
 - (vi) any omission or non-compliance of Customer with any permit or exemption that may be required for the operation of the Services by Customer;
 - (vii) any violation of the Service Agreement, the Additional Terms and Conditions or these Terms and Conditions.
- 12.4 If FACTS Consultancy, notwithstanding the provisions of this article, is found to be liable for any attributable shortcoming towards Customer, its liability will be limited to the immediate damage suffered by Customer up to the amount of the fees paid by Customer in the last 6 (six) months. FACTS Consultancy will under no circumstances be liable for any indirect or consequential damage. Customer will indemnify FACTS Consultancy in this matter against all claims of third parties.

13 GOVERNING LAW, JURISDICTION, DISPUTE RESOLUTION

- 13.1 All agreements between FACTS Consultancy and Customer shall be governed by the laws of the Netherlands.
- 13.2 Any dispute concerning the implementation or interpretation of the Service Agreement that cannot be settled amicably between the Parties shall be exclusively submitted to the competent court in Amsterdam, the Netherlands.

14 MODIFICATIONS TO THESE TERMS AND CONDITIONS

- 14.1 These Terms and Conditions may be changed by FACTS Consultancy from time to time. Changed Terms and Conditions will also be applicable on existing Service Agreements. Upon any such change, FACTS Consultancy will notify Customer of such change in writing, by email or publication on its website.



14.2 Customer's use of any Services after such notification will constitute Customer's acceptance of such changed Terms and Conditions.