

# General Service Conditions

## GSC0909



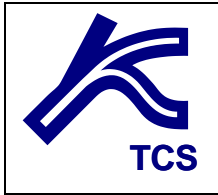
These General Service Conditions (GSC) define the general conditions applicable to the SERVICE supplied by KTCS to the CUSTOMER. They are provided as an annex to the Training & Consulting Agreement (TCA). All terms and conditions of the GSC are therefore valid unless specified otherwise in writing in the TCA or any annex that has precedence over these GSC.

### Article 1 – Definitions

- **AGREEMENT:** The agreement resulting from the combination of the Training & Consulting Agreement (TCA), the General Service Conditions (GSC), the Reduced General License Conditions (RGLC) if need be, and all other annexes listed in the TCA and/or later amendments signed by both parties.
- **KAPPA:** KAPPA Engineering SA, a petroleum software company, located at 17, rue Eugène Delacroix, 75116 Paris, France, and registered in Paris under the registration number (RCS) #342.067.857.
- **KTCS:** KAPPA Training & Consulting Services Ltd, a training and consulting company, an affiliate of KAPPA, dedicated to the delivery of the SERVICE, located at 2<sup>nd</sup> Floor Oakdene House, 34, Bell Street, Reigate Surrey, RH2 7SL, U.K., registered in Chester, UK, under the number 5413231; or any KAPPA affiliate providing the SERVICE on behalf of KTCS.
- **PARTY:** means either one of the two PARTIES to the AGREEMENT and PARTIES mean both of them.
- **TRAINING:** the delivery by the CONSULTANT to the CUSTOMER employee(s) of training in petroleum exploration and production related methodology, theory and/or practice, and/or on the usage of the SOFTWARE.
- **CONSULTING:** the delivery by the CONSULTANT of expert work, reporting and advice based on data and information provided by the CUSTOMER to the CONSULTANT.
- **SERVICE:** The TRAINING and/or CONSULTING services that are the subject of the AGREEMENT.
- **CUSTOMER:** The company or individual to whom the SERVICE is supplied by KTCS.
- **CONSULTANT:** any KTCS employee, associate consultant, instructor, and/or agent who provides the SERVICE to the CUSTOMER for and on behalf of KTCS.
- **SOFTWARE:** any program, intellectual and commercial property of KAPPA that is used by the CONSULTANT(s) and/or by the CUSTOMER employee(s) during the provision of the SERVICE.
- **AFFILIATE OF CUSTOMER or AFFILIATE** shall mean:
  - (a) The CUSTOMER or any company which CUSTOMER directly or indirectly controls.  
For this purpose:
    - (i) a company directly controls another company if it owns fifty per cent or more of the voting rights attached to the issued share capital of the other company; and
    - (ii) a company indirectly controls another company if a series of companies can be specified, beginning with the first company and ending with the other company, so related that each company of the series (except the ultimate controlling company) is directly controlled by one or more of the companies earlier in the series.
  - (b) any company which is managed or operated by CUSTOMER or a company as defined in (a) and/or has a construction, operating or technical service agreement with CUSTOMER and/or a company as defined under (a).

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### **Article 2 – Subject**

CUSTOMER requires that KTCS provides the SERVICE described in the Training & Consulting Agreement, and KTCS is willing to provide such SERVICE subject to and upon the terms and conditions of these GSC's. KTCS agrees to perform the said SERVICE as defined by this AGREEMENT as an independent contractor, and no CONSULTANT sent by KTCS shall be construed as being the agent or employee of the CUSTOMER.

### **Article 3 – Interpretation**

Article headings are inserted for convenience only and do not affect interpretation. Words using the singular include the plural and vice versa. Words implying a gender include other gender. A reference to a person includes an individual, the estate of an individual, a firm, a body corporate, an association (whether incorporated or not), a government and a governmental, semi-governmental or local authority or agency.

### **Article 4 – Termination**

- Termination by KTCS: Upon any default by the CUSTOMER in the payment provisions or upon any breach of the provisions of the AGREEMENT, KTCS shall have the right to terminate the AGREEMENT without any judicial procedure by giving 30 days written notice to the CUSTOMER of such termination.
- Termination by CUSTOMER: CUSTOMER will have the right to terminate the AGREEMENT at any time sending a cancellation letter to KTCS by registered mail 30 days prior to the cancellation date. Any relevant payment is due until the end of the notice period.

Termination shall not be a waiver of any monies due to KTCS or obligations owed to KTCS.

### **Article 5 – Conditions of usage of the SOFTWARE**

KTCS may use the SOFTWARE in the process of providing the SERVICE to the CUSTOMER.

If the CUSTOMER has already been granted commercial licenses of the SOFTWARE, the conditions of the Software License Agreement (SLA) signed between KAPPA and the CUSTOMER will apply.

If the CUSTOMER has not been granted any commercial license(s) of the SOFTWARE and as the SOFTWARE is granted by KTCS at no additional cost to the CUSTOMER, the CUSTOMER agrees to be bound to the Reduced General License Conditions (RGLC) provided in annex of this document.

### **Article 6 – Warranties**

CUSTOMER ACKNOWLEDGES THAT THE SERVICE SUPPLIED BY KTCS WILL BE CARRIED OUT WITH A WARRANTY ON MEANS, AND NO WARRANTY ON RESULTS.

A warranty on means: KTCS shall ensure that the CONSULTANT(s) have the proper qualification to deliver the SERVICE, and will diligently perform this SERVICE in a skilful and workmanlike manner.

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**No warranty on results:** The SERVICE includes training on and effective interpretations of test or other data. The CUSTOMER agrees that any recommendation or reservoir description based upon such interpretations are opinions based upon inferences from measurements, empirical relationships and theoretical assumptions, which inferences and assumptions are not infallible, and with respect to which professional engineers or analysts may differ. Accordingly, KTCS cannot and does not warrant the accuracy, correctness or completeness of any such interpretation, recommendation or reservoir description. Under no circumstances should any such interpretation, recommendation or reservoir description be relied upon as the sole basis for any drilling, completion, well treatment, production or financial decision or any procedure involving any risk to the safety of any drilling venture, drilling rig or its crew or any other individual.

CUSTOMER has full responsibility for any such decisions and for all decisions concerning other procedures relating to the drilling or production operation. No responsibility is therefore accepted or implied for any errors in the derived parameters or any losses arising from the use of these results either directly or consequentially. The validation and the use of the results are therefore wholly the responsibility of the CUSTOMER.

### **Article 7 – Waiver of Claims / liability**

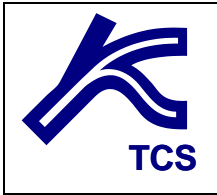
- Each PARTY waives any claim against the other PARTY and releases this other PARTY, its Officers, Directors, Consultant, Employees, Successors and Assignees for any and all claims, suits, causes of action, liability, damage resulting from the SERVICE supplied, including any form of indirect, incidental, and/or consequential damage and/or lost profits, revenues, goodwill, management time or anticipated savings, damage to property and direct or indirect injury or death to persons arising out of, or resulting from, the SERVICE and use of the proprietary rights and the licensed programs which are used in the framework of the SERVICE.

Except in the case of negligence of the other PARTY, each PARTY is liable for any damage, loss or claim arising out of, or relating to, the death, personal injury or property damage suffered, directly or indirectly, by the other PARTY when this damage has been caused in its premises. This responsibility applies, but is not limited, to imperfection of materials, condition of any premises or transport to or from such premises or the negligence of the employees, agents or subcontractors of the liable PARTY, and whether such negligence is sole, joint or concurrent.

- Each PARTY shall be liable for and shall indemnify and hold the other PARTY harmless from and against all claims, costs and expenses arising in connection with blow out, pollution, contamination or damage to the well, reservoir or formation directly or indirectly arising in connection with the SERVICE supplied, except in the case of gross negligence or wilful misconduct on the part of the other PARTY.
- Each PARTY aggregate liability to the other PARTY for any other breach of the AGREEMENT and/or arising from any tortious conduct or otherwise, resulting in damages to physical property and/or database, is limited to the SERVICE fees within the last twelve (12) months before the breach.

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### **Article 8 – Invoicing, settlements and payments**

On or before the tenth (10th) day of each month, KTCS or any KAPPA affiliate or agent designated by KTCS shall submit to CUSTOMER its invoice for any part of the SERVICE performed during the preceding month. Invoices shall reference this AGREEMENT by the assigned CUSTOMER number and shall be accompanied by all necessary supporting documentation and time sheets in the form approved by CUSTOMER. VAT will be added if applicable.

All invoices shall be paid within thirty (30) calendar days after receipt by CUSTOMER.

### **Article 9 – Title to created and delivered material**

In the case of CONSULTING, CUSTOMER shall have title to the files and reports created by the CONSULTANT(s) during the execution of the SERVICE. In the case of TRAINING, CUSTOMER will not have any title to any course material or example delivered by the CONSULTANT during the execution of the SERVICE.

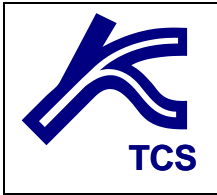
Unless explicitly agreed otherwise in writing by KTCS and the CUSTOMER, the CUSTOMER will not have any title to any new idea on methodology or SOFTWARE improvement that the CONSULTANT may have during the execution of the SERVICE. Any provision of idea by the CUSTOMER to the CONSULTANT will not be considered as an acknowledgement by KTCS that this idea is new and that the CUSTOMER has a title to this idea. If CUSTOMER considers that a new idea should be treated as confidential information to which the CUSTOMER should keep a title, CUSTOMER will inform KTCS and obtain KTCS written agreement before communicating this idea to the CONSULTANT(s).

### **Article 10 – Insurance**

- KTCS guarantees that the CONSULTANT, whether a KTCS employee, an employee of another KAPPA affiliate or an independent consultant, is legally entitled to perform this work and is personally covered for medical insurance and repatriation. In the event that the CONSULTANT needs to be hospitalized as a matter of urgency and in the event there is no health centre nearby customer premises or if the health centre is not in compliance with the emergency requirements, CUSTOMER accepts to allow the CONSULTANT to get to its private health centre if there is a health centre in CUSTOMER' premises. The medical costs implied will be borne by the CONSULTANT.
- If the CUSTOMER requires any additional insurance, this will be provided under the following conditions:
  - If KTCS fails to locate a provider for this additional coverage, the CUSTOMER will communicate to KTCS the name of a provider who can offer such coverage. In the event CUSTOMER is unable to suggest a provider capable of underwriting this additional insurance this additional insurance request will be considered void.
  - KTCS will recharge to CUSTOMER the cost of this additional coverage plus a 20% administrative fee.

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### **Article 11 – Force Majeure**

Each PARTY shall not be liable for failure to perform any of its obligations under the AGREEMENT if such failure is caused by, or arises, as a result of an event of Force Majeure. Force Majeure may result directly or indirectly from any cause which is beyond reasonable control including, but not limited to the following examples: fire, flood, strike, acts of God, changes of the regulatory environment, acts of governmental or military authorities, strike, civil unrest, terrorism and war.

As soon as reasonably possible, the PARTY facing Force Majeure shall notify the other PARTY in writing of any occurrence of an event of force majeure, the estimated extent and duration of its inability to perform its obligations under the AGREEMENT. The PARTY facing Force Majeure shall use all reasonable endeavors to minimize the effects of the force majeure event.

### **Article 12 – Safety**

KTCS and the CUSTOMER accept that the SERVICE may be provided in locations that may be subject to unrest, war, terrorism or health risk and that the safety of personnel is of paramount importance and overrides any commercial interest in this AGREEMENT. This AGREEMENT is made on an assessment of the risks to KTCS and CUSTOMER personnel in good faith and based on best knowledge at the time of offer of this AGREEMENT. Both PARTIES accept that circumstances may change or more information may come to light that may change this risk assessment and that ultimately it is the decision of the CONSULTANT due to perform said SERVICE that shall override both KTCS and CUSTOMER in the decision to travel to the location of the SERVICE. In the event that KTCS is unable to perform such service due to the decision of the CONSULTANT not to travel based on CONSULTANTS assessment of the risk involved KTCS will attempt to replace CONSULTANT with an alternative CONSULTANT prepared to travel. If this proves to be impossible KTCS will not be held responsible for cancellation or postponement of this AGREEMENT and any losses, neither direct nor, consequential incurred.

### **Article 13 – Confidentiality**

KTCS acknowledges that the CONSULTANT(s) will have access to confidential information that is acquired during the term of the AGREEMENT and which can be reasonably assumed to be confidential or which has been marked or otherwise indicated as confidential by CUSTOMER.

The CUSTOMER acknowledges that within the duration of the AGREEMENT it will have access to KTCS and/or KAPPA confidential information and proprietary rights.

Therefore, both PARTIES agree as follows:

Each PARTY agrees not to permit disclosure to any third party the confidential information and proprietary rights belonging or granted to the other PARTY without prior written authorization by the owner / holder, and agrees to implement appropriate measures to grant that such measures are respected by any of its employees and external persons having authorized access to the confidential information and proprietary rights. Both PARTIES agree not to make any use whatsoever of the information except in relation to the performance of the SERVICE.

Each PARTY acknowledges that they may have occasional and/or indirect access to the other PARTIES's data, software, documentation and any material and electronic support whatsoever for which each PARTY agrees to respect confidential obligations and proprietary rights.

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Both PARTIES agree they will not disclose any confidential information related to this AGREEMENT to any person that is not specifically required to have access to such confidential information. Any person having legitimate access to any confidential information will be informed about the confidential nature of this Information.

Confidential information will not include information from a PARTY that [1] was or became part of the public domain for a cause different from an act or omission from the other PARTY; [2] was the legitimate possession of the other PARTY before its disclosure, and or had already been obtained by the other PARTY, directly or indirectly from the disclosing PARTY; [3] was legitimately disclosed to the other PARTY by a third person who gained legitimate access to the confidential information independently of the other PARTY. This paragraph shall survive any termination of the AGREEMENT.

### **Article 14 – Taxes and Import/Export Licenses**

Income taxes or other taxes paid by KTCS and/or the CONSULTANT(s) in the performance of this AGREEMENT shall be the sole responsibility of CUSTOMER, as the case may be, and CUSTOMER and its clients shall be liable for, or required to reimburse, KTCS for such taxes. If, notwithstanding the preceding sentence, KTCS has to pay any such taxes for the CONSULTANT(s), CUSTOMER shall indemnify KTCS for all such taxes paid by KTCS, together with any penalties and interest.

Therefore CUSTOMER acknowledges that KTCS shall not be responsible for the taxes and payment incurred by KTCS and/or the CONSULTANT(s), including but not limited to any customs duties, import or export charges, fees, levies, direct payment of any withholding taxes, payroll taxes, contributions imposed by governmental authority, social security payments, payments under workmen's compensation or other insurance premiums, or other charges of any kind or nature, except as specifically outlined herein. These taxes and payment will be met by CUSTOMER. If any withholding taxes are applicable on payments due from CUSTOMER to KTCS as allowed for, KTCS shall invoice these taxes to CUSTOMER.

### **Article 15 – Code of Ethics**

With respect to any activities undertaken in connection with this AGREEMENT, KTCS warrants that any KTCS director, officer, employee, agent and sub-contractor have been formally instructed to comply with the following Code of Ethics:

- Not to violate nor fail to comply with any laws, regulations, rules, decrees and orders of any Governmental Entity from the country(ies) where the AGREEMENT will be executed;
- Never offer, give or loan money or anything of value to any CUSTOMER employee or persons acting on behalf of the CUSTOMER;
- Limit CUSTOMER employee entertainment and commercial gifts to levels accepted in the industry, such as (1) lunch or dinner invitations for a cost not exceeding 50 € per person, (2) reasonable tour of local places of interest in case of CUSTOMER employee visit to a KTCS office, for a cost not exceeding 100 € per person, (3) promotional gifts of no resale value, for an amount not exceeding 20 € per gift;
- Enforce even stricter rules if and when formally requested by the CUSTOMER;
- KTCS always favors direct transactions with the CUSTOMER; when a third party is imposed by the CUSTOMER or Governmental authorities as an intermediate for the transaction, KTCS will strictly apply the same Code of Ethics in its transaction with the third party. Any royalty and commission attributed to the third party will have to be approved by KTCS, in exchange for a real service, and once approved the amount will be provided to CUSTOMER on CUSTOMER request. KTCS will not guarantee the contents or the ethics of any transaction beyond its control if the third party was not selected by KTCS.

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### **Article 16 – Compliance with applicable law**

KTCS hereby represents, warrants and covenants that, with respect to any activities undertaken in connection with this AGREEMENT, neither KTCS nor any KAPPA Affiliate, nor any of their shareholders, directors, officers, consultant and/or the CONSULTANT(s) nor any other person or entity acting on behalf of any of them, shall violate or fail to comply with any local and international laws (tax laws, customs duties, labour laws, intellectual property laws), regulations, rules, decrees and orders of any Governmental Entity.

KTCS shall comply and ensure that the CONSULTANT(s) comply with all applicable laws, rules and regulations above-mentioned and KTCS shall hold CUSTOMER harmless from and against any loss, cost or expense to CUSTOMER incurred as a result of any failure by KTCS or any CONSULTANT to comply, limited to the fees paid by CUSTOMER within the last twelve (12) months before the breach. KTCS shall ensure compliance with the conditions of any permit, license or clearance relating to KTCS's or EMPLOYEES' operations hereunder.

### **Article 17 – Governing Laws**

Unless stated otherwise in the Training & Consulting Agreement, the AGREEMENT shall be governed by the laws of England. Any dispute concerning the AGREEMENT and any contractual disagreement that cannot be settled amicably between PARTIES shall be settled under the jurisdiction of the courts of the country selected as a reference for governing laws.

### **Article 18 – Assignment and Modification**

The AGREEMENT is not assignable by any PARTY without the prior written agreement of the other PARTY. It may not be modified except by written agreement of both PARTIES.

### **Article 19 – Severability**

If any provision of the AGREEMENT is found by an arbitral, judicial or regulatory authority having jurisdiction to be void or unenforceable, such provision shall be deemed to be deleted from the AGREEMENT and the remaining provisions shall continue in full force and effect. In such case both PARTIES shall agree to replace the void and unenforceable provision by a legally valid and enforceable provision which is as equivalent as possible to the original provision in economic terms.

### **Article 20 – Relationship of the PARTIES**

The AGREEMENT shall not form a joint venture or partnership or similar business arrangement between the PARTIES hereto, and nothing contained herein shall be deemed to constitute a partnership or joint venture or similar business arrangement or make a PARTY (or its employee) the agent of the other PARTY for any purposes. No PARTY has authority or power to bind, to contract in the name of, or to create a liability for the other PARTY in any way or for any purpose.

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### **Article 21 – Variation and Waiver**

No variation, amendment, modification and addition to or cancellation of any provision of the AGREEMENT shall be effective unless agreed upon in writing by both PARTIES. No waiver by KTCS of any default or defaults by the CUSTOMER in the performance of any provision of the AGREEMENT shall operate or be construed as a waiver in respect of the other further default or defaults whether of a like or different character.

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