



# General Public Training Conditions

## GPTC1211



### ARTICLE 1. BASIS OF AGREEMENT

- 1.1 The CUSTOMER and the SUPPLIER have entered into a service agreement to use the PUBLIC TRAINING SERVICE, in accordance with these general terms and conditions (hereafter known as the 'GPTC'). Together with the online booking and the GPTC are referred to as this 'AGREEMENT'.
- 1.2 The CUSTOMER acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the SUPPLIER which is not set out in this AGREEMENT; and these GPTC apply to this AGREEMENT to the exclusion of any other terms that the CUSTOMER seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### ARTICLE 2. INTERPRETATION

- 2.1 Definitions. In these GPTC, the following definitions apply:
- **AFFILIATE:** any business entity from time to time controlling, controlled by, or under common control with, either party.
  - **AGREEMENT:** as defined in Article 1.1 and for the avoidance of doubt meaning the online booking, together with these GPTC.
  - **CONSULTANT:** any KTCS employee, associate consultant, instructor, and/or agent who provides the PUBLIC TRAINING SERVICE to the CUSTOMER for and on behalf of KTCS.
  - **CUSTOMER:** means either the company (including its AFFILIATES) or individual to whom the PUBLIC TRAINING SERVICE is supplied by KTCS.
  - **INTELLECTUAL PROPERTY:** all patents, copyrights, design rights, trademarks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world.
  - **KAPPA:** KAPPA Engineering SA, a petroleum software and consulting company incorporated and registered in France with registration number (RCS) #342.067.857 (Paris) whose registered office is at 17, rue Eugène Delacroix, 75116 Paris, France.
  - **KTCS:** KAPPA Training & Consulting Services Ltd, a training and consulting company dedicated to the delivery of training and consulting services, including the PUBLIC TRAINING SERVICE and an AFFILIATE of KAPPA, incorporated and registered in England and Wales with company number 5413231 whose registered office is at 2nd Floor Oakdene House, 34, Bell Street, Reigate Surrey, RH2 7SL, U.K.; or any KAPPA AFFILIATE providing the PUBLIC TRAINING SERVICE on behalf of KTCS.
  - **PARTY:** means either the SUPPLIER or the CUSTOMER as the parties to this AGREEMENT and PARTIES mean all of them.
  - **PUBLIC TRAINING SERVICE:** the TRAINING organized by KTCS in premises managed by KTCS or any other KAPPA affiliate, and where the CUSTOMER individually sends its employee(s) on an individual basis and provided in accordance with Article 3 of these GPTC.
  - **SOFTWARE:** any program or set of programs, INTELLECTUAL PROPERTY and commercial property of KAPPA.
  - **SUPPLIER:** both KAPPA and KTCS.
  - **TRAINING:** the delivery by the CONSULTANT to the CUSTOMER of training in petroleum exploration and production related methodology, theory and/or practice, and/or on the usage of the SOFTWARE.
- 2.2 Construction: In these GPTC, the following rules apply:
- (i) the headings in these GPTC do not affect interpretation;
  - (ii) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality), an association (whether incorporated or not), a government and a governmental, semi-governmental or local authority or agency;
  - (iii) references to a party includes its personal representatives, successors or permitted assigns;
  - (iv) references to "including" or "includes" shall be deemed to have the words "without limitation" inserted after them;
  - (v) references to articles are to articles of these GPTC as set out in this AGREEMENT;
  - (vi) words in the singular include the plural and those in the plural include the singular; and
  - (vii) in the event this AGREEMENT or any part it is translated into another language, the English language version shall prevail in the event of a conflict.

### ARTICLE 3. PUBLIC TRAINING SERVICE

- 3.1 The CUSTOMER requires that KTCS provides the PUBLIC TRAINING SERVICE relating to the SOFTWARE [as described on the KAPPA website], and KTCS is willing to provide such service subject to the terms and conditions of this AGREEMENT.

### ARTICLE 4. CANCELLATION

- 4.1 The SUPPLIER will use reasonable endeavors to deliver the PUBLIC TRAINING SERVICE.
- 4.2 However the SUPPLIER reserves the right to cancel any PUBLIC TRAINING SERVICE in the event that insufficient delegates enroll to attend the PUBLIC TRAINING SERVICE.
- 4.3 In the event a PUBLIC TRAINING SERVICE event is cancelled in accordance with Article 4.3, the SUPPLIER will use reasonable endeavors to reschedule the PUBLIC TRAINING SERVICE.

### ARTICLE 5. INVOICE, PAYMENTS AND TAXES

- 5.1 The SUPPLIER shall submit to the CUSTOMER its invoice, which shall be inclusive of any applicable taxes, for the PUBLIC TRAINING SERVICE once the course is confirmed and prior to the delivery of the PUBLIC TRAINING SERVICE.
- 5.2 The CUSTOMER shall pay the invoice within thirty (30) calendar days of the invoice date or shall pay on-line.
- 5.3 If the CUSTOMER does not attend the PUBLIC TRAINING once the invoice has been sent, the payment will be due by the CUSTOMER regardless. However, full credit for this payment can be allowed against any other equivalent expenditure on any other PUBLIC TRAINING SERVICE as long as it is taken within twelve (12) months from the date of the invoice.
- 5.4 The CUSTOMER shall be solely responsible for the payment or reimbursement to KAPPA, KTCS and/or the CONSULTANT for all taxes and payment incurred by KAPPA, KTCS and/or the CONSULTANT arising from this AGREEMENT or all transactions in connection with this AGREEMENT.

### ARTICLE 6. LIMITS OF LIABILITY

- 6.1 This Article 6 sets out the entire financial liability of the SUPPLIER (including any liability for the acts or omissions of its employees, agents, consultants and subcontractors) to the CUSTOMER in respect of:
- (a) any breach of this AGREEMENT however arising;
  - (b) any use made by the CUSTOMER of the PUBLIC TRAINING SERVICE; and



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- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this AGREEMENT.
- 6.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this AGREEMENT.
- 6.3 Nothing in this AGREEMENT limits or excludes the liability of the SUPPLIER:
- (a) for death or personal injury resulting from negligence;
  - (b) for any damage or liability incurred by the CUSTOMER as a result of fraud or fraudulent misrepresentation by the SUPPLIER;
  - (c) breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - (d) any other liability which may not be excluded by law.
- 6.4 Subject to Articles 6.2 and 6.3:
- (a) the SUPPLIER shall not under any circumstances whatever be liable for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss of corruption of data or information, or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
  - (b) the SUPPLIER'S total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this AGREEMENT shall in all circumstances be limited to the fees paid by CUSTOMER for the PUBLIC TRAINING SERVICE within the last twelve (12) months before the breach.
- 6.5 This Article 6 shall survive termination of this AGREEMENT.

### ARTICLE 7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 The CUSTOMER acknowledges that all INTELLECTUAL PROPERTY rights in the SOFTWARE and all use during the PUBLIC TRAINING SERVICE, provided in this AGREEMENT belong and shall belong to KAPPA and/or KTCS, and the CUSTOMER shall have no rights in or to the SOFTWARE or any INTELLECTUAL PROPERTY other than the right to use it in accordance with the terms of this AGREEMENT.

### ARTICLE 8. CONFIDENTIALITY

- 8.1 Each PARTY agrees not to permit disclosure to any third party any confidential information, the SOFTWARE, INTELLECTUAL PROPERTY and proprietary rights belonging or granted to the other PARTY without prior written authorization by the owner/holder.
- 8.2 The CUSTOMER agrees not to provide to or permit the use of the SOFTWARE, INTELLECTUAL PROPERTY or any proprietary rights of the SUPPLIER by any third party, without prior written authorization by a director of the SUPPLIER.
- 8.3 The CUSTOMER agrees to implement appropriate measures to grant that such measures are respected by all employees and external persons having authorized access to the SOFTWARE, confidential information, INTELLECTUAL PROPERTY and proprietary rights.
- 8.4 Each PARTY agrees not to make any use whatsoever of the confidential information obtained via occasional and/or indirect access to the other PARTY's data for support, training and/or consulting except in relation to the performance under this AGREEMENT.
- 8.5 Any person having legitimate access to any confidential information will be informed about the confidential nature of this information.
- 8.6 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; and/or [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.
- 8.7 This Article 8 shall survive any termination of this AGREEMENT.

### ARTICLE 9. UNFAIR COMPETITION

- 9.1 The CUSTOMER has the right to use any competitor software. However the CUSTOMER will not use its knowledge of the SOFTWARE, any other INTELLECTUAL PROPERTY and/or any proprietary rights of the SUPPLIER, to develop, help develop or give specifications to improve a third party product that compete with the SOFTWARE. If the CUSTOMER decides to develop or help develop a product competing with the SOFTWARE, the CUSTOMER will formally inform the SUPPLIER in writing in advance and ensure that the conditions of this AGREEMENT are strictly enforced during the development of this competing product.

### ARTICLE 10. ETHICS

- 10.1 With respect to any activity undertaken in connection with this AGREEMENT, the SUPPLIER agrees that any SUPPLIER director, officer, employee, agent and sub-contractor have been formally instructed to comply with the following rules of ethics ('**RULES OF ETHICS**'):
- (a) never offer, give or loan money or anything of value to any CUSTOMER employee or persons acting on behalf of the CUSTOMER; and
  - (b) 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 KAPPA office, for a cost not exceeding 100 € per person, (3) promotional gifts of no resale value, for an amount not exceeding 20 € per gift.

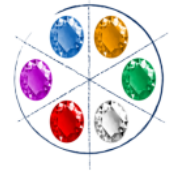
### ARTICLE 11. TERMINATION

- 11.1 Without prejudice to any rights that have accrued under this AGREEMENT or any of its rights or remedies:
- (a) KAPPA and/or KTCS may terminate this AGREEMENT upon any default by the CUSTOMER in the payment provisions or upon any breach of the provisions of this AGREEMENT by giving thirty (30) days written notice to the CUSTOMER of such termination;
  - (b) KAPPA and/or KTCS may terminate this AGREEMENT upon the commencement of any insolvency or bankruptcy proceedings against the CUSTOMER or the CUSTOMER making an arrangement with creditors;
  - (c) either PARTY may terminate if the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; and/or



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- (d) KAPPA and/or KTCS may terminate this AGREEMENT if any event occurs (or circumstances exist) which, in its reasonable opinion, is likely to materially and adversely affect the CUSTOMER's or SUPPLIER's ability to perform all or any of its obligations under, or otherwise comply with the terms of, this AGREEMENT.
- 11.2 Termination by either PARTY in accordance with the rights contained in this Article 11 shall not affect the accrued rights, remedies, obligations or liabilities of the PARTIES existing at termination.
- 11.3 On termination for any reason:
- (a) all rights granted to the CUSTOMER under this AGREEMENT shall cease;
  - (b) the CUSTOMER shall cease all activities authorized by this AGREEMENT;
  - (c) the CUSTOMER shall immediately pay to the SUPPLIER any sums due to the SUPPLIER under this AGREEMENT and termination shall not be a waiver of any monies due; and
- 11.4 Any provision of this AGREEMENT which expressly or by implication is intended to come into or continue in force on or after termination of this AGREEMENT including Articles 1, 5, 6, 7, 8, 9 and 11 shall remain in full force and effect.

### ARTICLE 12. GENERAL

#### 12.1 FORCE MAJEURE:

- (a) Each PARTY shall not be liable for failure to perform any of its obligations under this AGREEMENT if such failure is caused by, or arises, as a result of an event of force majeure (**FORCE MAJEURE EVENT**). 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.
- (b) As soon as reasonably possible, the PARTY facing force majeure shall notify the other PARTY in writing of any occurrence of a FORCE MAJEURE EVENT, the estimated extent and duration of its inability to perform its obligations under this AGREEMENT. The PARTY facing force majeure shall use all reasonable endeavors to minimize the effects of the FORCE MAJEURE EVENT.
- (c) If a FORCE MAJEURE EVENT subsists for more than 40 days then either PARTY may terminate this AGREEMENT with written notice to the other.

12.2 **ASSIGNMENT:** This AGREEMENT is not assignable by any PARTY without the prior written agreement of the other PARTY.

#### 12.3 NOTICES:

- (a) Any notice required to be given under this AGREEMENT shall be in writing in English (or accompanied by a properly prepared translation in English) and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each PARTY required to receive the notice as set out below:
  - (i) KAPPA: [CONTACT], [17, rue Eugène Delacroix, 75116 Paris, France].
  - (ii) KTCS: [CONTACT], [2nd Floor Oakdene House, 34, Bell Street, Reigate Surrey, RH2 7SL, U.K.]; or
  - (iii) as otherwise specified by the relevant PARTY by notice in writing to each other PARTY.
- (b) Any notice shall be deemed to have been duly received:
  - (i) if delivered personally, when left at the address and for the contact referred to in this Article 12.3(a);
  - (ii) if sent within the United Kingdom by pre-paid first-class post or recorded delivery, at 9.00 am on the second (2) business day after posting;
  - (iii) if sent by airmail, five (5) business days from date of posting; or
  - (iv) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

12.4 **VARIATION:** No variation, amendment, modification and addition to or cancellation of any provision of this AGREEMENT shall be effective unless it is in writing and signed by the PARTIES.

#### 12.5 WAIVER AND CUMULATIVE REMEDIES:

- (a) A waiver of any right under this AGREEMENT is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a PARTY in exercising any right or remedy under this AGREEMENT or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under this AGREEMENT are cumulative and do not exclude rights provided by law.

12.6 **ENTIRE AGREEMENT:** This AGREEMENT and any documents referred to in it constitute the entire agreement between the PARTIES and supersede and extinguish all previous drafts, arrangements, understandings or agreements between them, whether written or oral, relating to the subject matter of this AGREEMENT.

#### 12.7 SEVERANCE:

- (a) If a court or any other competent authority finds that any provision of this AGREEMENT (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of this AGREEMENT shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of this AGREEMENT would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.8 **NO PARTNERSHIP OR AGENCY:** Nothing in this AGREEMENT is intended to, or shall operate to, create a joint venture or partnership between the PARTIES, or to authorise either PARTY to act as agent for the other, and neither PARTY shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

12.9 **RIGHTS OF THIRD PARTIES:** A person who is not a party to this AGREEMENT shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this AGREEMENT, but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

12.10 **GOVERNING LAW AND JURISDICTION:** This AGREEMENT, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and any contractual disagreement that cannot be settled amicably between parties shall be irrevocably submitted by the parties to the exclusive jurisdiction of the courts of England and Wales.

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