

## General Terms and Conditions of Sale (July 2014)

BEONPERF is a simplified joint stock company with capital of € 10,000, -, registered s e the number 752 860 502 RCS PARIS, headquartered is located 24 rue Louis Blanc Paris (75010) (hereinafter " **BEONPERF** ").

BEONPERF carries out a digital strategy consulting activity (hereinafter " **BEONPERF** "). Subscription to one or more BEONPERF Services implies acceptance of these general conditions of sale.

### **Article 1: object**

These General Conditions govern all contractual or pre-contractual commercial relations between BEONPERF and the Client relating to the activities, products and / or services of BEONPERF.

These General Conditions prevail over all agreements or provisions to the contrary, including in particular, the Client's general purchasing conditions. They cancel and replace any other agreement that may have governed the previous relations between the Parties and relating to the same subject, with the exception of the Estimate.

Receipt by BEONPERF of the Estimate signed by the Customer materializes the Customer's unreserved acceptance of these General Conditions.

BEONPERF reserves the right to modify, at any time, the content of these General Conditions. Such modifications give rise to the publication of a new version on the Website which will then apply to the Quote (s) which will be signed by the Customer after its entry into force.

### **Article 2 - Definitions**

" **Customer** " means the Customer of BEONPERF whose names, contact details and references are specified in the Quotation.

" **General Conditions** " designate these general conditions, including the modifications and additions that BEONPERF may make to them.

" **Quotation** " means the quotation established by BEONPERF, allowing the Customer to subscribe to the Service.

" **Duration** ": The duration, mentioned in the Quote, for which the Customer has subscribed to the " **Part (s)** " Service means BEONPERF and / or the Customer.

" **Price** " means the price of the Services mentioned on the Quote. All prices are quoted excluding taxes in euros unless indicated in another currency.

" **Service** " means the service (s) offered by BEONPERF and subscribed by the Customer. The Customer acknowledges having been informed and having taken cognizance of the nature of the Service and assumes responsibility for his choices according to his capacities and needs. He acknowledges having received all necessary information in this regard.

" **Website** " means the site [www.beonperf.com](http://www.beonperf.com)

### **Article 3 - Duration**

The General Conditions apply for the Duration mentioned on the Quote.

### **Article 4 - Validity of the offer - Order taking**

The Estimate sets out the offers of Services that BEONPERF offers to the Customer. Unless expressly agreed between the parties, any estimate offered by BEONPERF to the Customer is valid for 15 days from the date of issue. The signature of the Quote by the Customer, or the acceptance of the Quote in writing (including email) from the Customer, makes the order firm and final. The date of signature of the quote or acceptance of the order is hereinafter referred to as the " **Contract Date** ". The prices are expressed in euros excluding taxes, unless another currency is indicated.

### **Article 5 - Commitments of BEONPERF**

BEONPERF undertakes to use its best means to provide the Client, within the agreed time limits, with the Services specified in the Quote. So:

- BEONPERF undertakes to implement the human resources necessary for the performance of the Services. The Customer acknowledges that BEONPERF is only bound by an obligation of means.  
- BEONPERF will not be held responsible for any delay or non - performance of the Services when the cause of the delay or non-performance is due to the occurrence of a case of force majeure or a fortuitous event, in accordance with the provisions of article 7 below.

- Without prejudice to the provisions of Article 8 below, the Customer expressly accepts that BEONPERF can in no way be held liable for direct and / or indirect, material and / or immaterial damage occurring during the performance of the Services.

- Where applicable, the cumulative amount of damages and any other indemnities or condemnations that the Client may claim against BEONPERF is capped at the price paid by the Client to acquire the Service (s) giving rise to the questioning of BEONPERF.

### **Article 6 - Price**

6.1. The Customer undertakes to pay BEONPERF, in accordance with article 6, the amounts indicated on the order form.

6.2. BEONPERF may modify the prices of the Services at any time, subject to having informed the Customer thereof by any means.

If he does not accept the new tariff, the Customer may, from this information and at the latest two (2) months after the first debit of his account incorporating this modification, terminate the corresponding Service and / or the Contract, by registered letter with acknowledgment of receipt. Said termination takes effect on the last day of the month following that of the sending of the termination request.

In this case, BEONPERF undertakes to reimburse the sums collected for

the difference between the old and the new tariff.

### **Article 7 - Payment terms - Default of payment**

7.1 The Prices and payment conditions for the Services are those mentioned in the quote. Unless otherwise agreed by the Parties mentioned in the Quote, any order from the Customer gives rise to payment of a deposit of 50% upon ordering. All invoices must ETR e Reg Lee by the Customer no later than 30 days after the invoice date;

- the settlement is accepted by check, line e, bank or postal transfer - all invoices are payable at the registered office of e BEONPERF

- no discount will be applied in the event of payment before the due date, unless otherwise indicated on the invoice.

The prices offered take into account the briefing phases and exchanges of elements, as well as the presentations. Any additional request from the Customer will result in a re-evaluation of the Price.

7.2. In the event of delay or failure to pay the sums due, the Customer may be invoiced, for each reminder, a penalty in the amount of 99 euros for the reminder costs, without prejudice to any other action on the part of BEONPERF, including those defined in article 7.3 below.

7.3. By express agreement, failure to pay by the due date entails as of right and without prior notice:

- the immediate payability of all sums still due;

- the calculation and liability of late interest equal to the interest rate of the European Central Bank (ECB) for its refinancing operations, increased by 10 points, without a reminder being necessary, in application of article 53 of law n °2001-420 of May 15, 2001. Interest applies to all sums due by the Client, including the penalties defined in article 6.2 above. Interest is capitalized under the conditions of article 1154 of the Civil Code;

- the suspension of all current services, whatever their nature and / or level of advancement.

**Article 8 - Liability** (i) BEONPERF cannot be held liable in the event of force majeure and / or fortuitous event preventing it from performing its obligations normally. The Parties expressly agree to attribute to the following events the effects of force majeure, even if they do not present the legal characteristics of force majeure or fortuitous event: fire, explosion or water damage occurring in the premises of BEONPERF or the Customer, any work stoppage for BEONPERF or its suppliers, lockout, flood, epidemic, war, requisition, strike, hurricane, tornado, earthquake, revolution, legal moratorium, act of the prince, theft of all or part equipment, freezing, lack of fuel or electric energy, interruption or delay in transport or post and telecommunications, impossibility or difficulty of import or export, or impediments resulting from the provisions of the authority in matters of Reg internal economic regulations. (ii) The Client expressly acknowledges and accepts that BEONPERF is bound by a simple obligation of means in respect of all of its obligations resulting from the General Conditions. (iii) BEONPERF does not assume any responsibility concerning in particular the financial or commercial damages, indirect, resulting from the implementation by the Customer of the services provided by BEONPERF, such as for example the loss of profit, the increase of the general expenses, the perturbation of schedule, loss of profit, clientele or savings expected, etc. (iv) Except in cases of gross negligence or willful misconduct, the overall responsibility for BEONPERF to the Customer under the terms and conditions, regardless of in legal foundation would not exceed the amounts already paid by the Customer under the pending order. (v) The Customer acknowledges that he is the only one able to foresee and quantify the damage likely to be suffered by him in the event of difficulty arising in the context of the execution of the General Conditions including the terms and conditions (in particular the financial terms) have been decided in view of the limitations and exemptions of liability from which BEONPERF benefits. As a result, the Customer acknowledges and accepts its responsibility to ensure against any risk that he alone deems appropriate have regard to its particular circumstances and conditions under General.

### **Article 9- Intellectual property**

In accordance with the provisions of the Intellectual Property Code, all intellectual property rights including copyright relating to the provision of Services provided to the Client by BEONPERF, in execution of one or more Quotes, and not expressly granted to the Client by BEONPERF, remain the entire property of BEONPERF or, where applicable, the property of third parties who have authorized BEONPERF to use them. The names, brands, signs and / or logos of BEONPERF protected by intellectual property rights cannot therefore be reproduced, imitated or used without the express consent of BEONPERF.

### **Article 10 - Confidentiality**

The Parties undertake to preserve the confidentiality of all documents and information, of whatever nature, economic, technical, commercial or otherwise, relating to the other Party, its products or its activities, to which it would have access on the occasion of the execution of the General Conditions and which would not be in the public domain, except prior and express authorization of the said Party. BEONPERF to reserve the possibility to communicate with its employees, agents or contractors all information relating to the Client that is not in the public domain, if such disclosure is necessary or desirable for the performance by BEONPERF of its obligations under the General Conditions, it being understood that BEONPERF will bring to the attention of these persons the confidential nature of said information. This article will remain in force for three (3) years following the expiration of the General Conditions.

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### **Article 11 - Data processing and Freedoms**

The Customer expressly acknowledges, and accepts, that BEONPERF collects and archives information concerning him. The information thus collected is mandatory to allow the management of the General Conditions. This information is intended only for BEONPERF, responsible for processing. The Customer may at any time exercise his right of access, modification and opposition under the conditions provided for by the law of January 6, 1978 amended by the law of August 6, 2004 with BEONPERF, at the address appearing herein. The right to exercise is exercised exclusively by registered letter addressed to BEONPERF - Informatique et Liberté - 24 rue Louis Blanc, 75010 Paris.

### **Article 12 - Imbalance following a change in the legal framework**

Any modification of the legal or regulatory framework, which would be likely to cause a significant imbalance between the services covered by the General Conditions, will allow each of the Parties to request a renegotiation of the General Conditions. The occurrence of a modification of the legal framework allowing the exercise of the preceding paragraph does not exempt the Parties from fulfilling the obligations arising from the General Conditions. However, in the absence of an agreement occurring within two (2) months of the negotiation request, each Party shall be entitled to terminate the General Conditions by registered letter with acknowledgment of receipt, without further formality and as of right. Termination by BEONPERF, following a modification of the legal framework making it impossible to perform the agreements between the Parties, will not give rise to the right to compensation for the Customer.

### **Article 13 - Non-competition**

13.1. The Customer undertakes, throughout the Term and for a period of two (2) years from the end of the Services, not to create or use, directly or indirectly, an economic or professional activity that would have an activity identical or similar to that of BEONPERF or which would include all or part of the Services.

13.2 Client binds, throughout the Term and for a period of two (2) years from the end of the Services, not to poach, offer employment or employ, encourage to halt its activities within the company BEONPERF, person or intermediary, and in any capacity whatsoever, any person having the quality of employee or corporate officer of BEONPERF. Failure to comply with this commitment by the Customer will incur its liability and will be sanctioned by the award of damages that the BEONPERF company will be entitled to claim.

### **Article 14 - Miscellaneous**

14.1 Unless having obtained the prior written authorization of BEONPERF, the Client may not assign or transfer the benefit hereof to any natural or legal person of his choice. BEONPERF reserves the right to transfer the benefit hereof to any legal person of its choice, without notice.

14.2 Within the framework of the execution of the General Conditions, BEONPERF may freely entrust the execution of certain tasks to partners or subcontractors.

14.3 The Customer authorizes unreservedly BEONPERF to publicly exploit his name and brands as a commercial reference from the entry into force 're Terms and Conditions. If the Customer does not want his name to be or be used by BEONPERF as a commercial reference, the Customer must inform BEONPERF in writing.

14.4 These General Conditions and the Quotes express all the obligations of the Parties. The fact, for one of the Parties, of not invoking a breach or a failure to perform one of its obligations or any other breach by the other Party of any of its obligations under the General Conditions shall be construed as a waiver of the obligation in question or the remaining provisions of the Terms. Likewise, any delay or omission by one of the Parties in the exercise of the rights and prerogatives conferred on it under the General Conditions cannot be interpreted as any waiver of the benefit of said rights and prerogatives.

14.5 The General Conditions and the Estimates constitute in a complete and exclusive manner the entirety of the terms of the agreement entered into between BEONPERF and the Client and cancel and replace the negotiations, proposals, communications, declarations and previous commitments, oral or written, between the Parties, as to the subject matter of these presents. 14.6 In the event that one of the clauses of the General Conditions is declared null, illegal or irrelevant, this clause will be deemed unwritten and may not result in the nullity of the General Conditions as a whole. The Parties shall endeavor to replace this clause by a valid clause having equivalent effect.

14.7 The clauses of the General Conditions prevail over any other previous agreement agreed between the Parties. Any modification of the General Conditions will be the subject of an addendum, dated and signed by the Parties.

14.8 Each Party undertakes to make available to the other any information necessary for the proper execution of the General Conditions.

#### **14.9 Convention on Evidence:**

The Parties may rely, in particular for the purposes of proof of any act, fact or omission, of the programs, data, files, recordings, operations and other elements (such as monitoring reports or other statements, e-mails, electronic forms) of nature or in electronic form. The Parties undertake not to contest the admissibility, validity, enforceability or probative value of the aforementioned elements of nature or in electronic format, on the basis of their electronic nature. Unless proven otherwise, these elements will be valid and enforceable between the Parties in the same manner, under the same conditions and with the same probative force as any document which is drawn up, received or kept in writing.

### **Article 15 - Choice of domicile - Contact details**

For the execution of the General Conditions, the Parties agree to elect domicile at the address mentioned in the estimate. Any change will only be effective against the other Party after the expiration of a period of fifteen (15) calendar days from the receipt of a letter designating its new contact details.

### **Article 15 - Applicable law - Competent court**

The General Conditions are subject for their conclusion, their interpretation, and their execution to French law. Pursuant to article 2254 of the Civil Code, all actions and procedures brought by the Client against BEONPERF must be brought no later than one year after the Date of the Contract, under penalty of inadmissibility.

Any disputes that may arise regarding the validity, interpretation, execution or non-performance, interruption or termination of this contract, will be subject to the mediation rules of the Centre de Médiation et d'Arbitrage de Paris (CMAP: 39, avenue FD Roosevelt - 75008 PARIS) to which the parties declare to adhere and, in the event of failure of mediation, the Paris Commercial Court will have sole jurisdiction, even in the event of multiple defendants or call in guarantee. The Customer accepts this attribution of jurisdiction without any restriction or reservation.

The :

Good for agreement,

Signature: