

<p>1 Definitions/interpretation</p> <p>1.1 In these General Delivery Conditions the terms listed below have the following meaning, unless otherwise expressly stated:</p> <p>InShoring Pros: the contractor, InShoring Pros Nederland B.V., a private limited liability company, having its registered office in Haarlem, the Netherlands, registered in the Trade Register of the Chamber of Commerce under number 54142911;</p> <p>Resourcing Pros Innovation Kite Kite Thinking Delivery Conditions: registered trade name of InShoring Pros registered trade name of InShoring Pros registered trade name of InShoring Pros these general delivery conditions of InShoring Pros, as they apply from time to time;</p> <p>Assignment: an assignment for the provision of services and/or delivery of products by or on behalf of InShoring Pros to the Customer, as recorded in a Work Assignment or Work Order;</p> <p>Customer: a natural person, legal entity or legal form that gives an Assignment to InShoring Pros for the provision of services or delivery of products;</p> <p>Party: InShoring Pros or the Customer;</p> <p>Parties: InShoring Pros and the Customer jointly;</p> <p>Proposal: an offer, proposal or quotation from InShoring Pros regarding the provision of services or delivery of products;</p> <p>Work Assignment: the agreement for the provision of services or delivery of products by or on behalf of InShoring Pros to the Customer (Work Order).</p> <p>1.2 Unless the context requires otherwise or unless otherwise expressly apparent, the following applies to the interpretation of these Delivery Conditions:</p> <p>1.2.1 terms used in the singular include the plural;</p> <p>1.2.2 a reference to a specific gender includes the male, the female and the neuter;</p> <p>1.2.3 a reference to a natural person includes an individual, legal entity (with or without legal personality), association, partnership, government, government institution, authority, alliance, works council or other form of employee representation in any jurisdiction, with or without independent legal personality;</p> <p>1.2.4 a reference to a person includes the legal representatives, successors, authorised assignees and authorised representatives in any jurisdiction, with or without independent legal personality;</p> <p>1.2.5 a reference to a statutory provision includes (i) the statutory provision after it has been amended or has again entered into force (or both) before the date of the Work Assignment; and (ii) any lower-level regulations on the basis of the statutory provision (before the date of the work assignment);</p> <p>1.2.6 the term "including" means "including but not limited to/without prejudice to the general applicability of the above"; and</p> <p>1.2.7 the term "or" (without "and") means "and/or".</p> <p>2 General</p> <p>2.1 These Delivery Conditions govern all Proposals, orders, requests, invoices and Assignments regarding the provision of services or the delivery of products by InShoring Pros, as well as all agreements or other legal relationship related thereto or arising therefrom.</p> <p>2.2 These Delivery Conditions also govern all Assignments given to InShoring Pros for the performance of with third parties must be engaged.</p> <p>2.3 If and insofar as one or more provisions of these Delivery Conditions depart(s) from one or more provisions of the Work Assignment, the provisions of the Work Assignment prevail.</p> <p>2.4 If one or more of the provisions of these Delivery Conditions is/are void or voided, the other provisions of these Delivery Conditions continue to apply in full. InShoring Pros and the Customer will then consult in order to agree on new provisions to replace the void or voided provisions, whereby the purpose and scope of the original provision will be observed to the extent possible.</p> <p>2.5 InShoring Pros expressly excludes the applicability of any purchase and/or other (standard) conditions of the Customer except insofar as InShoring Pros has expressly accepted the applicability of those conditions in writing.</p> <p>2.6 If these Delivery Conditions as well as the purchase conditions and/or other conditions of the Customer apply, these Delivery Conditions prevail.</p> <p>3 Proposal</p> <p>3.1 Proposals from InShoring Pros are based on the information provided by the Customer.</p> <p>3.2 The Customer warrants that it has provided to the best of its knowledge all essential information for the design, performance and completion of the Work Assignment.</p> <p>3.3 The Proposals made by InShoring Pros are subject to contract. Until InShoring Pros receives written acceptance of a Proposal from the Customer, InShoring Pros has the right to withdraw the Proposal without stating any reasons.</p> <p>3.4 The provisions of Article 3.3 also apply if the Proposal includes a term for acceptance. If no term for acceptance is stated, a Proposal in any event expires thirty (30) days after the date of the Proposal in question.</p> <p>3.5 The prices stated in Proposals are exclusive of VAT and other government charges and any costs incurred in the context of the Work Assignment, including shipping and administrative costs, unless otherwise stated.</p> <p>3.6 If the acceptance differs (on minor points) from the offer contained in the Proposal, InShoring Pros is not bound by the Proposal. In that case the Work Assignment is not partly concluded or concluded in accordance with that differing acceptance, unless InShoring Pros states otherwise.</p> <p>3.7 A combined quotation does not obligate InShoring Pros to perform part of the Assignment for a corresponding part of the quoted price.</p> <p>3.8 Proposals do not automatically apply to future Assignments.</p> <p>4 Provision of information and cooperation</p> <p>4.1 The Customer must provide InShoring Pros in a timely manner with all the documents, information and contacts that are necessary for a proper performance of the Assignment.</p> <p>4.2 The Customer warrants that the information and documents made available to InShoring Pros are correct, complete and reliable, also if they come from third parties.</p> <p>5 Performance of the Assignment and engagement of third parties</p> <p>5.1 InShoring Pros is under a best efforts obligation in respect of the work to be performed and services to be provided, and in respect of the performance of the Assignment.</p> <p>5.2 InShoring Pros performs the work in the context of the Assignment to the best of its knowledge, skill and ability.</p> <p>5.3 Insofar as proper performance of the Assignment so requires, InShoring Pros has the right to assign all or part of the work to third parties. InShoring Pros will do so in consultation with the Customer.</p> <p>5.4 If it has been agreed that the Assignment will be performed in phases, InShoring Pros can suspend the performance of the parts related to a subsequent phase until the Customer has approved the results of the preceding phase in writing.</p> <p>5.5 If InShoring Pros or third parties engaged by InShoring Pros in the context of the Assignment perform work at the Customer's location or at a location designated by the Customer, the Customer must arrange free of charge for the facilities reasonably required by those employees.</p> <p>5.6 If InShoring Pros or third parties engaged by it perform work in the context of the Assignment at the Customer's location or at a location designated by the Customer, the Customer must ensure that all obligations arising from legislation and regulations regarding employee safety of also observed in relation to the persons in question.</p> <p>6 Changing of the Assignment/additional work</p> <p>6.1 The Customer accepts that the planning schedule of the Assignment may be influenced if the Parties decide in the interim to change the approach, procedure or scope of the Assignment and the resulting work.</p>	<p>6.2 If due to actions of the Customer interim changes occur in the performance of the Assignment, InShoring Pros will make the necessary adjustments in consultation with the Customer. If that gives rise to additional work, that work will be charged to the Customer as an additional Assignment. InShoring Pros has the right to charge the Customer the extra costs involved in changing the Assignment.</p> <p>6.3 Contrary to Article 6.2 InShoring Pros may not charge additional costs if the change or supplementation of the Assignment is due to breach in the performance of the Assignment for which InShoring Pros is to blame.</p> <p>7 Term of the Assignment/completion period</p> <p>7.1 The Assignment between InShoring Pros and a Customer is open-ended, unless otherwise inherent in the nature of the Assignment or unless the Parties expressly agree otherwise in writing.</p> <p>7.2 If a period has been agreed on within the term of the Assignment for the completion of certain work, that period is in no event of the essence. If the agreed completion period is exceeded, InShoring Pros is in default only if the Customer has given InShoring Pros written notice of default and InShoring Pros fails to perform the work in question after all within a reasonable period after receipt of the notice of default.</p> <p>8 Rates</p> <p>8.1 All rates and amounts stated in the Proposal, the Work Assignment or an invoice are exclusive of turnover tax.</p> <p>8.2 Unless the Parties have agreed otherwise in writing, the fees charged by InShoring Pros are based on an hourly rate.</p> <p>8.3 The fees charged by InShoring Pros include the costs of secretarial work and telephone charges. Travel time is charged at 50% of the hourly rate. Travelling and accommodation expenses are claimed in accordance with agreements in the Proposal.</p> <p>8.4 It applies to all Proposals that only the time actually spend is charged and that, if the quoted amount is about to be exceeded by more than five per cent (5%), the excess is charged in consultation with the Customer.</p> <p>8.5 If InShoring Pros agrees on an hourly rate with the Customer, InShoring Pros is nevertheless entitled to increase that rate.</p> <p>8.6 InShoring Pros has the right, without prior written notification, to increase the rate agreed on in the Proposal as from 1 January of each calendar year by no more than the inflation percentage published by the CBS (Dutch Central Statistics Office) in the preceding year.</p> <p>8.7 In the event of a price increase InShoring Pros has the right to increase the prices in addition to inflation. The Customer has the right to dissolve the Assignment if the increase exceeds 10% in any year. The Customer is not entitled to dissolve the Assignment if the right to increase the rate arises from the law.</p> <p>8.8 InShoring Pros will inform the Customer in writing of any intention to increase the rate on the grounds of Article 8.7. InShoring Pros will thereby state the extent of the increase and the date on which it will commence.</p> <p>8.9 If the Customer refuses to accept a rate increase notified by InShoring Pros that is not related to the cases referred to in Articles 8.6 and 8.7, the Customer has the right within two weeks after that notification to terminate the Assignment in writing or to cancel the Assignment as from the date stated in the notification from InShoring Pros on which the rate adjustment was to take effect.</p> <p>8.10 InShoring Pros may request the Customer to make a down payment and/or to issue a bank guarantee.</p> <p>9 Payment conditions</p> <p>9.1 Payment must be made within two weeks after the invoice date, unless the Customer and InShoring Pros agree otherwise.</p> <p>9.2 Objections to the amount or details of an invoice do not suspend the payment obligation.</p> <p>9.3 If the Customer fails to pay an invoice within the agreed term for payment, the Customer is in default by operation of law.</p> <p>9.4 From the moment the Customer is in default, it owes InShoring Pros interest for late payment equal to the statutory commercial interest, without any prior demand or notice of default being required and without prejudice to the other rights vested in InShoring Pros. The Customer must furthermore reimburse InShoring Pros for any and all loss incurred by InShoring Pros as a result of the default, including the reasonable costs involved in obtaining payment of the invoice out of court. The damages that the Customer owes InShoring Pros amount to a minimum of five hundred euros (€500).</p> <p>9.5 If no payment is made for more than 1 (one) month, InShoring Pros can suspend performance of the Assignment until payment has been made.</p> <p>9.6 If the Customer is wound up or declared bankrupt, if attachment is levied on its assets or if it is granted a suspension of payment, InShoring Pros's claims against the Customer fall due immediately and in their entirety.</p> <p>9.7 InShoring Pros will first deduct payments made by the Customer from the costs, then from the interest on overdue amounts, and finally from the principal.</p> <p>10 Acceptance</p> <p>10.1 If all or part of the Assignment relates to a performance commitment, InShoring Pros' standard Acceptance Protocol applies.</p> <p>10.2 If all or part of the Assignment relates to a time and materials commitment, InShoring Pros will present Time Sheets to Customer stating the hours spent which Customer has to approve.</p> <p>11 Completion of the Assignment</p> <p>11.1 The Assignment has been completed in a financial sense when the Customer approves the final settlement. The Customer must inform InShoring Pros accordingly within 30 days after the invoice date. If the Customer fails to respond within that period, the final settlement is deemed to have been approved.</p> <p>12 Retention of title</p> <p>12.1 All goods delivered to the Customer by InShoring Pros, including designs, sketches, drawings, films, software, electronic and other files, etc., remain InShoring Pros's property until the Customer has performed all the obligations under the agreements concluded with InShoring Pros.</p> <p>12.2 The Customer does not have the right to pledge or otherwise encumber the goods to which the retention of title applies.</p> <p>12.3 If third parties levy attachment on the goods delivered subject to retention of title or wish to create or exercise rights in respect of those goods, the Customer must immediately inform InShoring Pros accordingly and must immediately draw the attention of the third parties in question to InShoring Pros's retention of title.</p> <p>12.4 The Customer must insure the goods delivered subject to retention of title and keep them insured against fire, explosion and water damage and against theft, and must provide access to the insurance policy at InShoring Pros's first request.</p> <p>12.5 Goods delivered by InShoring Pros subject to retention of title may be resold only in the normal conduct of business and may in no event be used as a means of payment.</p> <p>12.6 If InShoring Pros wishes to exercise its ownership rights referred to in this Article, the Customer hereby gives InShoring Pros – and any third parties to be designated by InShoring Pros – unconditional and irrevocable permission to gain access to the places where InShoring Pros's property is located and to take back those goods.</p> <p>13 Complaints</p> <p>13.1 The Customer must report to InShoring Pros in writing any complaints regarding the work performed within two weeks after the invoice date but no later than three weeks after completion of the work in question.</p> <p>13.2 The complaint must contain as detailed a description as possible of the alleged breach, to enable InShoring Pros to respond adequately.</p> <p>13.3 If a complaint is valid, InShoring Pros will perform the work after all in the agreed manner, unless that has already become demonstrably pointless for the Customer. The Customer must state that in writing.</p> <p>13.4 Article 16 of these Delivery Conditions also applies if performance by InShoring Pros proves impossible in whole or in part.</p> <p>14 Notice of termination/termination</p> <p>14.1 Each of the Parties has the right to terminate the Assignment by giving the other Party written notice, without observing any notice period, if:</p> <p>14.1.1 the other Party ceases to exist;</p> <p>14.1.2 the other Party has been declared bankrupt, has been granted a suspension of payment or has adopted a winding-up resolution;</p> <p>14.1.3 the other Party is no longer performing any activities;</p>
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- 14.1.4 the other Party is in breach of its obligation under the Work Assignment and fails to remedy that breach within thirty (30) days after notice of default;
- 14.1.5 the other Party is in default and it is permanently impossible to remedy that default; or
- 14.1.6 the other Party is unable due to an event of force majeure to perform its obligations under the Work Assignment for a period of more than ninety (90) days.
- 14.2 InShoring Pros furthermore has the right to terminate the Assignment by means of written notice to the Customer, without observing a notice period, if circumstances occur of such a nature that performance of the Assignment is impossible or can no longer reasonably be required of InShoring Pros, or if other circumstances occur of such a nature that InShoring Pros cannot reasonably be required to continue the Assignment unamended.
- 14.3 In other cases a Party may give notice of termination only subject to a notice period of at least ninety (90) days.
- 14.4 Premature termination must take place in writing, stating the reasons.
- 14.5 At the moment of termination all amounts that the Customer owes InShoring Pros fall due immediately and without any further notice of default being required.
- 14.6 If InShoring Pros terminates the Assignment in accordance with Article 14.1 or the Customer terminates the Assignment in accordance with Article 14.3, InShoring Pros is entitled to compensation on the basis of the quoted work, based on the average monthly invoices until that time, at least equal to the outstanding obligations to suppliers of InShoring Pros in the context of the Assignment. The provisional results of the work performed until that time will be made available to the Customer to the extent possible.
- 14.7 In the event of premature termination by the Customer, InShoring Pros will arrange on request and in consultation with the Customer for transfer of any work yet to be performed to third parties, provided that the Customer has paid all the amounts that it owes InShoring Pros.
- 14.8 If the transfer of the work involves costs for InShoring Pros, those costs are charged to the Customer.
- 14.9 Termination or completion of an Assignment is without prejudice to the rights or remedies available to – or the liabilities or debts acquired by – the Parties on the date of termination or completion.
- 14.10 Termination or completion of an Assignment is without prejudice to the application of these Delivery Conditions.
- 15 Suspension**
- 15.1 InShoring Pros has the right to suspend the performance of its obligations by means of written notice to the Customer if:
- 15.1.1 the Customer fails to perform the obligations under the Assignment or to do so in full;
- 15.1.2 circumstances that come to InShoring Pros's attention after conclusion of the Assignment are valid reason to fear that the Customer will fail to perform its obligations. If there is valid reason to fear that the Customer will not or will not fully perform, suspension is permitted only insofar as the failure justifies such suspension; or
- 15.1.3 the Customer was requested on the conclusion of the Assignment to provide security for the performance of its obligations under the Assignment and that security is not provided or is insufficient.
- 16 Return of property made available**
- 16.1 If InShoring Pros makes property available to the Customer in the performance of the Assignment, the Customer must return that property to InShoring Pros at its written request within 14 days in its entirety, in its original condition and free from defects.
- 16.2 Any costs and damage (including the replacement value of the goods delivered) arising from failure to comply with this obligation are payable by the Customer.
- 17 Liability**
- 17.1 A Party is not liable for indirect or consequential loss, in any event including loss of profit, loss of orders and loss of turnover.
- 17.2 A best efforts obligation applies to any Assignment that InShoring Pros accepts. InShoring Pros can in no event be held liable for results not realised. InShoring Pros is only liable for defects in the performance of the Assignment that are due to negligent or injudicious advice or performance of duties.
- 17.3 InShoring Pros is in no event liable for any indirect or consequential loss incurred by the Customer, including any loss of income on the part of the Customer. InShoring Pros is not liable for work performed by third parties insofar as those third parties themselves entered into an agreement with the Customer without any agency, involvement or intermediary on the part of InShoring Pros.
- 17.4 InShoring Pros is not liable for:
- 17.4.1 any loss that is unavoidable in the correct performance of the Assignment;
- 17.4.2 any loss that is directly or indirectly due to the urgency required by the circumstances;
- 17.4.3 any loss that is directly or indirectly due to suspension of InShoring Pros's performance in accordance with the law, the Work Assignment or these Delivery Conditions;
- 17.4.4 any damage to and/or loss of information, data or databases of the Customer;
- 17.4.5 any loss that is directly or indirectly due to errors in the data, documents and/or information provided by or on behalf of the Customer; or
- 17.4.6 any loss that is directly or indirectly due to inaccuracies and/or imperfections arising in the dispatch or transfer of data, documents and/or information by the Customer to InShoring Pros due to a defect of and/or incorrect use of the means of communication used by the Customer for that purpose.
- 17.5 If InShoring Pros is liable for loss, that liability is limited to the amount paid in the case in question under InShoring Pros's liability insurance, and is furthermore limited per Work Assignment to the amount that the Customer has paid InShoring Pros in relation to that Work Assignment during the six-month period preceding the harmful event.
- 17.6 Any entitlement of the Customer to reimbursement of loss, repair or replacement of a product and/or delivery of missing goods, on any ground whatsoever, expires:
- 17.6.1 if the Customer fails to file a timely complaint in accordance with these Delivery Conditions; or
- 17.6.2 one (1) year after delivery or, if a different term has been agreed in writing, at the end of that different term, unless (i) InShoring Pros and the Customer have arrived at a written arrangement among themselves; or (ii) the Customer has instituted proceedings in accordance with Article 26 of these Delivery Conditions.
- 17.7 The limitations of liability under this Article 17 do not apply in cases in which the loss is due to intent, gross negligence or deliberate recklessness of one of the Parties or is attributable to one of the Parties.
- 18 Non-competition**
- 18.1 During the Assignment and for a period of twelve (12) months after its termination the Customer may not in any form, either directly or indirectly, conduct or cause the conduct of a business, or have any shareholding or other holding or participation in any business, that competes with InShoring Pros.
- 19 Non-solicitation clause/customer protection clause**
- 19.1 During the Assignment and for a period of twelve (12) months after its termination the Customer may not in any form, either directly or indirectly, employ any person or hire or engage any person as a self-employed person who has been engaged by or on behalf of InShoring Pros in the performance of the Assignment.
- 19.2 During the Assignment and for a period of twelve (12) months after its termination the Customer may not in any form, either directly or indirectly, enter into an agreement with a supplier, service provider or other business contact engaged by or on behalf of InShoring Pros in the performance of the Assignment.
- 20 Penalty**
- 20.1 On each breach of the provisions of Article 18 the Customer forfeits to InShoring Pros a penalty payable immediately, without any notification or judicial intervention, in the amount of one hundred and fifty thousand euros (€150,000).
- 20.2 On each breach of the provisions of Article 19 the Customer forfeits to InShoring Pros a penalty payable immediately, without any notification or judicial intervention, in the amount of one hundred thousand euros (€100,000).
- 20.3 On each breach of the provisions of Article 24 the Party in breach forfeits to the Party that is not in breach a penalty payable immediately, without any notification or judicial intervention, in the amount of fifty thousand euros (€50,000).
- 20.4 Payment of the penalty referred to above is without prejudice to:
- 20.4.1 the (ongoing) obligations under the agreement of the Party in breach; and
- 20.4.2 the entitlement of the Party that is not in breach to claim compensation of the actual loss that it has incurred as a result of the breach, and/or preliminary relief in preliminary relief proceedings to which it is entitled.
- 21 Indemnities and guarantees**
- 21.1 The Customer indemnifies InShoring Pros against any third-party claims regarding intellectual property rights on materials or data provided by the Customer that are used in the performance of the Assignment.
- 21.2 The Customer warrants towards InShoring Pros that the data carriers, electronic files, software or other products made available to InShoring Pros are sound and free from viruses and other defects.
- 22 Passing of risk**
- 22.1 The risk of loss of or damage to the goods that are the subject of the Assignment passes to the Customer the moment that title to those goods is transferred to the Customer or they are physically delivered to the Customer, and are thereby placed under the control of the Customer or a third party designated by the Customer.
- 23 Force majeure**
- 23.1 Failure cannot be imputed to a Party if that Party is not to blame for the failure and the failure is not for its account on the grounds of the law or a justic act or by generally accepted standards.
- 23.2 In an event of force majeure InShoring Pros has the right to suspend its performance in whole or in part for the duration of the event of force majeure, irrespective of whether the event of force majeure has occurred on the part of the Customer or on the part of InShoring Pros.
- 23.3 In these Delivery Conditions "force majeure" means, in addition to the meaning given to that term in law and case law, all external causes, foreseen or unforeseen, beyond InShoring Pros's control, as a result of which InShoring Pros is unable to perform its obligations, including strikes, sickness and/or disablement for work in InShoring Pros's business or in the business of third parties engaged by InShoring Pros.
- 23.4 InShoring Pros may also invoke an event of force majeure if the circumstance that prevents performance or further performance occurs after InShoring Pros should have performed its obligations.
- 23.5 Insofar as InShoring Pros has already performed or will be able to perform all or part of its obligations under the Assignment when the event of force majeure occurs, and the part performed or yet to be performed has independent value, InShoring Pros has the right to separately invoice the part already performed or yet to be performed. The Customer must pay that invoice as if it related to a separate Assignment.
- 24 Confidentiality**
- 24.1 Both Parties must observe confidentiality in respect of all confidential information that they receive from each other or from any other source in the context of the Assignment, unless they are required to disclose that information on the grounds of a statutory provision or court order. Information is considered confidential if the other party has designated it as such or if that is inherent in the nature of the information.
- 25 Intellectual property and copyrights**
- 25.1 The rights in copyright-protected works developed by InShoring Pros are vested in InShoring Pros. If necessary, the Customer is granted a right of use. The rights in works developed by InShoring Pros as bespoke and exclusively for Customer and as such defined in mutually agreed specifications are vested in InShoring Pros, unless explicitly otherwise agreed in a signed Work Assignment.
- 25.2 The Customer is expressly prohibited from publishing, multiplying, disclosing or operating models, software, hardware or other materials, methods and instruments developed or made available under the Work Assignment, directly or through the engagement of third parties, otherwise than with InShoring Pros's written consent, and save for the rights of use and powers expressly given to the Customer in these Delivery Conditions or otherwise.
- 25.3 Documents made available by InShoring Pros, such as reports, advice, Assignments, designs, sketches, drawings, software, etc., may be used and multiplied by the Customer only for its own use within its own organisation and with due observance of the duty of confidentiality that applies to the Customer.
- 25.4 InShoring Pros reserves the right to use new information obtained in the performance of the Assignment for other purposes insofar as no confidential information of the Customer is thereby disclosed to third parties.
- 26 Disputes**
- 26.1 The Parties will first try to solve any disputes arising from the Assignment or agreements based on the Assignment by means of mediation, in accordance with the relevant regulations of Stichting Nederlands Mediation Instituut in Rotterdam, the Netherlands.
- 26.2 If it proves impossible to solve a dispute as referred to above by means of mediation, the dispute is presented to the competent court of Amsterdam, the Netherlands.
- 26.3 Article 26.1 is without prejudice to a Party's right to request the preliminary relief judge of the court of Amsterdam to order precautionary measures in preliminary relief proceedings.
- 27 Governing law**
- 27.1 These Delivery Conditions, all Assignment and any resulting agreements and other legal relationships and their interpretation are governed by Dutch law.
- 28 Amendments**
- 28.1 These Delivery Conditions have been filed with the office of the Chamber of Commerce at which InShoring Pros is registered.
- 28.2 The most recently filed version or the version that applied on the conclusion of the Assignment is applicable at all times.