

GENERAL TERMS AND CONDITIONS POLARIKS

Dutch Chambre of Commerce: 81247028
for the use of the POLARIKS PLATFORM
for businesses

1. Definitions

The following words, when written with a capital letter, will have the following meaning:

<u>Agreement</u>	every present or future offer, (SAAS) agreement or other (legal) relationship between Polariks and the Client regarding the use of the Platform
<u>Article</u>	an article in the T&C
<u>Client</u>	any party to which these T&C apply because of an Agreement with Polariks
<u>DCC</u>	Dutch Civil Code
<u>Parties</u>	Polariks and the Client
<u>Platform</u>	the self-developed platform called 'Polariks', providing various Services
<u>Polariks</u>	GreenPeak-IT BV, trading under the name Polariks, located in The Netherlands at the Braziliëlaan 4 (1432 DG) in Aalsmeer
<u>Products</u>	any products delivered by Polariks to the Client
<u>T&C</u>	these general terms and conditions
<u>Services</u>	the services provided by (the Platform of) Polariks, including, but not limited to, unlocking data sources, cloud storage management, business intelligence functionalities, digital twin functionalities, predictive maintenance & performance management functionalities, hyperspectral image recognition functionalities.

2. Working with Polariks

- 2.1. These T&C apply to any Agreement between Polariks and the Client regarding the use of the Platform.
- 2.2. Any deviations from the T&C shall only apply if agreed in writing.
- 2.3. Polariks has the right to unilaterally amend the T&C. If this happens, the amendments shall apply to the existing Agreement and an amended copy will be provided to the Client. The most recent version can always be found on www.polariks.com. If the time at which the amendments enter into force has not been specified, the amendment(s) shall enter into force at such time as the amended T&C are made available.
- 2.4. If part (of any provision) of the T&C or Agreement is void or unenforceable, or is held to be void or unenforceable by the competent (judicial) authority, the remaining provisions of the T&C shall remain in force. In that case, provisions that are not legally valid or that cannot be legally enforced shall be replaced by provisions that most closely follow the content of the invalid provision.
- 2.5. The applicability of any terms and conditions used by the Client is hereby expressly rejected.
- 2.6. Polariks undertakes to provide all Services related to the Agreement and Platform to the best of his ability.
- 2.7. All Agreements will be accepted and performed by Polariks. Articles 7:404 and 7:407(2) DCC do not apply to the Agreement. Polariks reserves the right to outsource (part of) its services or work to third parties.

- 2.8. All quotations and offers done by Polariks, whether verbal, written or electronic, are without obligation, unless Polariks has expressly included a period for acceptance.
- 2.9. Polariks' offers and quotations are based on information provided (in advance) by the Client. The Client shall provide Polariks with all information necessary for the execution of the Agreement and hereby guarantees and warrants that this information is correct. An Agreement is concluded as soon as Polariks confirms this in writing or electronically to the Client.
- 2.10. Unless explicitly mentioned otherwise in the offer or quotation, the provisions of the T&C shall prevail in the event of a contradiction or inconsistency between these T&C and an offer or quotation.

3. Modules

- 3.1. The Platform enables the Client to use different types of modules, such as a module for data & analyses, a module for performance management, a module for predictive maintenance and a production forecast module. The Client can opt for the relevant modules.
- 3.2. The pricing of the available modules is formulated in the offer or quotation.

4. Pricing

- 4.1. All prices mentioned by Polariks are exclusive of VAT and any other taxes, unless expressly agreed upon otherwise.
- 4.2. Polariks can raise the price in the interim in case of unforeseen and/or cost price increasing circumstances, if these circumstances occur after the establishment of the Agreement.

5. Payment

- 5.1. Any payment obligation of the Client under an Agreement must be paid in euros.
- 5.2. The Client will receive an invoice for the use of the Platform with a payment term of 30 days, unless expressly agreed upon otherwise. If the Client fails to pay after this term has expired, the Client will be in default automatically without further notice (fatal deadline).
- 5.3. In deviation of the payment term mentioned in Article 5.2, Polariks may require payment in advance.
- 5.4. Any objections to the amount or content of an invoice must be made in writing within 14 days and shall not suspend or cancel any of Client's payment obligations.
- 5.5. The payment obligations of the Client do not qualify for any form of setoff.
- 5.6. Polariks may request additional security for payment obligations. If requested, the Client hereby undertakes to provide such security to Polariks in advance.

6. Other obligations

- 6.1. All terms mentioned by Polariks for Services to be delivered by Polariks in relation to the Platform are indicative. Polariks will always do its best to give effect to them, but these are never fatal deadlines. The moment a deadline is exceeded, Polariks will inform the Client as soon as possible. Polariks shall in no event be obliged to compensate any damage that the Client may suffer in this regard.

- 6.2. Should the Client fail to (timely) pay the invoice(s) due to Polariks, Polariks reserves the right to refuse execution, delivery of the Platform and/or any other performance until all amounts due to Polariks have been paid by the Client, without prejudice to (and therefore not replacing) any other rights to which Polariks is entitled under the law or the Agreement, such as the right to claim performance and/or damages.

7. Retention of title

- 7.1. All Products delivered by Polariks in relation to the Platform, shall remain the property of Polariks until all claims that Polariks has or may obtain against the Client on account of agreements for the provision of Services and/or the delivery of Products (including any related (collection) costs and interest) have been paid in full.
- 7.2. Prior to said transfer of ownership, the Client shall not be authorized to use, sell, deliver or otherwise dispose of those Products other than in the normal course of its business and in addition to the normal use of the Products.
- 7.3. The Client is obliged to carefully store the Products related to the Platform that have been delivered under retention of title.

8. Duration and termination

- 8.1. An Agreement is a contract for a specified period of 1 year. The Client cannot (partially) terminate (*opzeggen/ontbinden*) the Agreement early, in derogation from article 7:408 DCC. After this agreed period, the Agreement will be automatically renewed for the initial specified period of the Agreement.
- 8.2. Termination of this Agreement is possible by a written notice at least 30 days before the end of the term of the Agreement.
- 8.3. In the following cases (but not limited thereto):
- the Client fails to fully and timely comply with any (payment) obligations under the Agreement and/or T&C;
 - the Client is declared bankrupt or suspension of payment is granted;
 - the Client requests bankruptcy, suspension of payment or liquidation;
 - the Client loses the ability to control its assets partly or fully;
 - the Client has provided incorrect and/or incomplete and/or inconsistent information/data; or
 - the Client uses the (content of the) Platform or the information provided by Polariks in a way that (potentially) harms (the reputation of) or damages the Platform and/or Polariks;

Polariks is, without prejudice to its rights based on Dutch law, these T&C and the Agreement, entitled to immediately and without any notice period (partially) terminate (*opzeggen of ontbinden*) the Agreement by means of written notice, without the Client being entitled to any kind of compensation (of damages), payments or guarantees.

9. Complaints

- 9.1. The Client shall notify Polariks in writing of any complaints within 14 days after it discovers a possible shortcoming or fault or should reasonably have discovered the shortcoming or fault of any aspect of the (Services related to) the Platform.

- 9.2. A timely notified complaint does not suspend or cancel any (payment) obligation of the Client.
- 9.3. If the Client does not notify Polariks on time, the Client is not entitled to any recovery performance or compensation.

10. Liability

- 10.1. Polariks shall not be liable for any damages except in the case of intent or deliberate recklessness on the part of Polariks.
- 10.2. Any contractual or noncontractual liability on the part of Polariks as a result of intent or deliberate recklessness will in all cases be limited to direct damages. Polariks will never be liable for any indirect damages including but not limited to lost earnings or profits.
- 10.3. Any contractual or noncontractual liability is furthermore limited to the amount invoiced by Polariks for (the performed part of) the SAAS part of the Agreement (so not the payment of costs for implementation or other hourly rates) directly related to the possible shortcoming or breach during a maximum period of one year prior to that possible shortcoming or breach. Under no circumstances will the liability of Polariks for damages exceed the amount actually paid by Polariks' liability insurance in the relevant matter, even if the invoiced amount exceeds the insured amount.
- 10.4. Polariks is not liable for any errors or omissions of third parties engaged by it (including subcontractors). The Client authorises Polariks to accept any limitations of liability of third parties on its behalf. The provisions in this Article shall also apply for the benefit of and can be invoked by all legal and natural persons utilised by Polariks in execution of an Agreement.
- 10.5. To avoid misunderstanding, Polariks and the Client expressly state that in any case Polariks is, without prejudice to the aforementioned, not liable for any outing/provided information (e.g., regarding prognosis, impact and prices) whether outed on their website, the Platform or otherwise. The information on the website and the Platform is for general informational purposes and does not constitute any advice. While Polariks endeavours to keep the information of the Platform up to date and correct, it makes no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability for any purpose. Any reliance the Client places on such information/outings is therefore strictly at its own risk.

11. Force Majeure

- 11.1. Polariks is entitled to suspend any activities of the Platform in case Polariks is not able to perform those activities (timely) due to circumstances that Polariks does not control directly (force majeure).
- 11.2. A Force Majeure includes, though is not limited to, disturbances in Polariks' company, or in the supply chain of content/products/services, technology (such as apps, websites, lacking availability of data sources/connections/resources, e.g. flooding of data centres or non-functioning satellites) and services, materials or equipment, and in (environmental) circumstances making performance unreasonably onerous and/or disproportionately difficult for Polariks, including power

disconnections, asbestos, soil detoxication, serious conflicts, (assumed) terrorist attacks, extreme weather circumstances, (regional) pandemics, acts or omissions (such as non (timely) performance) by suppliers, transporters, subcontractors or other third parties, incorrect or incomplete information provided by the Client or third parties and technical failures.

- 11.3 If Polariks' aforementioned suspension exceeds a period of three months, or Polariks, in its sole discretion, foresees that the suspension will exceed this period, Polariks is entitled to immediately and without notice period (partially) terminate (*opzeggen of ontbinden*) the Agreement by means of written notice, without the Client being entitled to any kind of compensation (of damages), payments or guarantees.

12. Intellectual Property

- 12.1. Polariks will have and retain the ownership of everything shared by Polariks in any activity of the Platform, including any intellectual property rights and/or goods in respect of which intellectual property rights can be claimed ('**IP**'), unless explicitly agreed otherwise in writing.
- 12.2. All names, brands, logos and titles used on the Platform are trademarks or trade names of Polariks or third parties. The Client is not allowed to use or reproduce those or any of the other content on the Platform as this might infringe (third party) IP.
- 12.3. Except as expressly agreed otherwise in writing, all IP in or arising out of/in connection with the activities of the Platform shall be owned by Polariks.
- 12.4. The Client does not acquire any right, title or interest in or to any IP from Polariks.
- 12.5. The Client is only allowed to use the Platform for the purpose of the Platform. All content and/or material provided by Polariks through the Platform or in other ways is and remains the exclusive property of Polariks. All content and/or material provided by Polariks is strictly intended for the use of Client only. The Client warrants that he shall not use any product or service of Polariks in a way that can (possibly) infringe the rights of third parties.
- 12.6. It is explicitly prohibited to copy, document, share, modify, distribute, reproduce or otherwise use any content and/or material in a way that it becomes accessible to any third party.

13. Confidentiality

- 13.1. All information and data that the Parties acquire from each other under the Agreement will be handled carefully by the Parties and will be treated strictly confidential. Unless expressly agreed otherwise, all information provided in or because of this Agreement and, on the Platform, qualifies as confidential information. Confidential information shall not be disclosed to anyone, except to employees or third parties that need to be aware of the information to carry out obligations under the Agreement or if required by law.
- 13.2. The Client is allowed to use the information and data provided by Polariks for the sole purpose of the use of the Platform. It is forbidden to make any other use of the information and data without prior written permission from Polariks.

13.3. In the event of a violation of the provisions of this article, the Client shall forfeit an immediately due and payable penalty on behalf of Polariks of EUR 15,000 in a lump sum as well as EUR 1,000 per day that this violation continues, without any notice of default or judicial intervention being required and without prejudice to Polariks' rights to damages and/or compliance.

14. Availability

14.1. Polariks strives for an availability of the Platform of 99% per year, not including night hours and outside cases of force majeure and unforeseen circumstances. Given the nature of the Services Polariks cannot guarantee this unless the guarantee is separately agreed in a service level agreement.

14.2. In the event of failure or unavailability of the Platform, Polariks will make every effort to inform Client of the expected duration, resolution time and possible measures.

15. Privacy & data

15.1. Polariks' handling and processing of personal data is set out in its Privacy Statement.

15.2. By using the Platform, several data from the Client will be submitted to Polariks. Client does not transfer (the right to) any data to Polariks. Client grants Polariks a non-exclusive, worldwide, perpetual, royalty-free license to use Clients' data for the improvement of the Platform and Services. For example, the data will be used for the improvement and (further) development of the software and models related to Platform.

15.3. If Polariks produces a database that contains data of the Client, all (intellectual property) rights related to that database will vest in Polariks.

16. Governing law and jurisdiction

16.1. These T&C, all existing Agreements and any future (legal) relationships between Polariks and the Client are exclusively governed by Dutch law. The applicability of the Vienna Convention on contracts for the international sale of goods, 'CISG' (*Weens Koopverdrag*) is excluded.

16.2. Any disputes that may arise from these T&C, Agreements or any future (legal) relationships between Polariks and the Client will be submitted to the competent court in Amsterdam, the Netherlands.