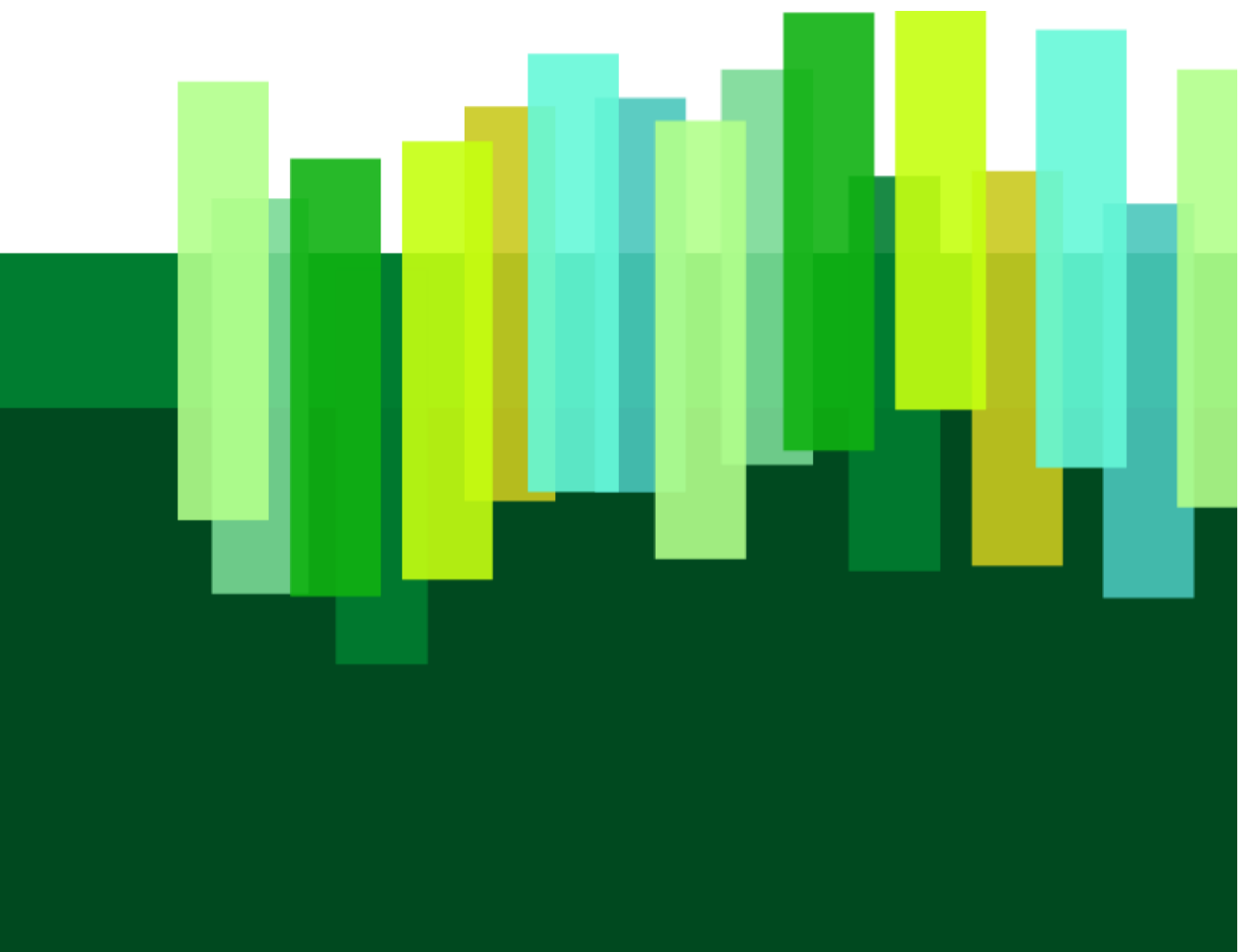




# Product Terms and conditions for periodic services for infrastructure 2024 Kenter B.V.



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## 1. Definitions

The capitalised definitions in these Product Terms and Conditions have the following meaning, insofar as they are not described in the General Terms and Conditions of Kenter B.V.:

### General Terms and Conditions

The General Terms and Conditions of Kenter B.V., as amended from time to time.

### System Manager

The responsibility arising from the Legislation of a person who is designated as directly responsible for the safe operation of the electrical system and the safety of the electrical work equipment.

### System Responsibility

The responsibility for complying with and guaranteeing the obligations and requirements of the Installation Manager as referred to in Article 5 of these Product Terms and Conditions.

### Product Terms and Conditions

The Product Terms and Conditions or infrastructure of Kenter B.V., as amended from time to time.

### Legislation

Federal and regional statutory provisions applicable to the Agreement

## 2. Applicability

These Product Terms and Conditions, in addition to the General Terms and Conditions, apply to and form an integrated part of all Offers and Agreements, including amendments and additions thereto, with regard to the performance by Kenter of periodic services and/or Work for and/or related to the lease and maintenance of Infrastructure.

## 3. Term and termination

### 3.1.

Unless otherwise agreed, the Agreement is entered into for an indefinite period.

### 3.2.

The parties may terminate the Agreement by giving written notice to the other party and taking into account a notice period of six (6) months.

## 4. Performance of the Agreement

### 4.1.

The costs associated with replacing Infrastructure or parts thereof will be borne by the Client, unless the Client leases the Infrastructure from Kenter.

### 4.2.

If this is necessary to carry out the Work, the Client will allow the system to be temporarily taken out of service. Kenter strives for the shortest possible interruption.

### 4.3.

If the Client demands the use of an emergency facility such as generators for Work performed by Kenter, the Client will report this to Kenter prior to the work. The costs associated with the use of an emergency facility will be borne by the Client.

## 5. System Responsibility

### 5.1.

If and insofar as the System Responsibility for the Infrastructure belonging to the Client stated in the Agreement has been transferred by the Client to Kenter, Kenter will exercise this responsibility in accordance with the applicable safety standards and statutory regulations.

### 5.2.

Kenter cannot be deemed to have accepted System Responsibility until Kenter has confirmed this In Writing to the Client. The Client provides Kenter with all data relevant to the System Responsibility, including (breakdown) information, reports and documents of the Infrastructure. The Client guarantees the completeness and accuracy of the relevant data.

### 5.3.

Kenter may impose conditions for exercising of System Responsibility. The Client provides Kenter with all data relevant to the System Responsibility, including (breakdown) information, reports and documents of the Infrastructure. Kenter will inform the Client about this adjustment. Any costs of adjustments or maintenance of the Client's system(s) deemed necessary by Kenter will be borne by the Client

### 5.4.

If the System Responsibility for the Client's Infrastructure is exercised in whole or in part by the Client or a third party engaged by it, the Client guarantees that the Client or the third party involved always complies with the applicable safety standards and statutory regulations.

## 6. Breakdowns

### 6.1.

Breakdowns in the Leased Property and/or to the Infrastructure for which Kenter exercises System Responsibility must be reported by the Client to Kenter via the service helpline within twelve (12) hours after the breakdown has been noticed.

**6.2.**

In the event of a breakdown, Kenter will make every effort to be present within the agreed response time to resolve the breakdown. If breakdowns occur simultaneously at several Kenter clients, Kenter has the right to apply its priority policy.

**6.3.**

The costs for resolving and/or rectifying a breakdown and the costs for making emergency arrangements to maintain the energy supply during a breakdown are borne by the Client. If the Client leases Infrastructure from Kenter, the provisions of Articles 0 and 0 apply.

**6.4.**

If, following a (breakdown) report, it is determined that the cause of the breakdown does not lie in the Leased Property and/or Infrastructure for which Kenter exercises System Responsibility, Kenter's call-out and other costs will be borne by the Client.

**6.5.**

The Client is obliged to cooperate free of charge in resolving breakdowns.

## 7. Fees, rates and payment

**7.1.**

As soon as Kenter delivers the Leased Property at the location or makes it available there, the Client must pay. The Client owes the fees for the performance of services, including maintenance for the Infrastructure, when the Infrastructure is ready to be activated.

**7.2.**

If work is performed by Kenter that is not covered by the Agreement, costs in the form of additional work will be charged at the rates and conditions applicable at the time of the performance. If possible, Kenter will inform the Client in advance of the additional work.

**7.3.**

Additional work resulting from necessary (additional) work can be performed immediately and without an instruction from the Client up to an amount of EUR 1,500.00. If the costs are higher, prior approval or assignment by the Client is required.

## 8. Defects

**8.1.**

Complaints regarding observable defects in the Product and the Work must be made as soon as possible, but no later than eight (8) days after delivery, by registered letter and stating the reasons.

**8.2.**

Complaints regarding defects in the Product and the Work must be made as soon as possible, but no later than eight (8) days after discovery, by registered letter and stating the reasons.

**8.3.**

The Client cannot lodge a complaint if a defect in a Product or the Work has arisen as a result of incorrect use of the Product or due to actions, including in any case adjustments, modifications, assembly, repairs, transport, storage and maintenance work on the Product or the Work that has not been performed by Kenter. Neither can Kenter be held liable for defects that directly or indirectly result from accidents that cannot be attributed to Kenter.

**8.4.**

If the defects do not fall within the scope of Article 0 and the Client has observed the periods foreseen in Articles 0 and 0 Kenter is free:

- to repair the defect in the Product or the Work free of charge; or
- to replace the Product free of charge with an equivalent product; or
- To compensate the Client for the defect by means of an amount of money to be paid.

**8.5.**

The parts replaced by Kenter by virtue of Article 0 will become the property of Kenter.

**8.6.**

If after Kenter's intervention in accordance with Article 0 it is discovered that the defects fell within the scope of Article 8.3 for whatever reason, the costs involved will be borne by the Client.

**8.7.**

The Client is deemed to have waived the claim if it does not take all necessary measures to submit the dispute to the competent court within twenty-four (24) months of the timely implementation of Article 0 or 0, in accordance with Article 11.1 of the General Conditions and Article 11.1 of the General Terms and Conditions.

## 9. Liability and damage

### 9.1.

Except in the case of intent or wilful recklessness on the part of Kenter, Kenter is at all times exclusively liable for direct, material damage, which is understood to mean property damage that arises immediately and directly, including the costs of repairing the defect, due to an attributable shortcoming of Kenter in the fulfilment of its obligations under the Agreement. Kenter is therefore under no circumstances obliged to compensate indirect damage (such as consequential damage or trading loss, loss of production, loss of turnover or profit and missed savings).

### 9.2.

Without prejudice to the provisions of Article 0, Kenter's liability towards the Client is limited in all cases to the amount that is paid out pursuant to Kenter's liability insurance policies. To the extent that Kenter's insurer does not pay out for whatever reason, Kenter's liability is limited to a maximum of twice the annual sum the Client owes Kenter for the periodic Work.

### 9.3.

During the performance of Work and the delivery of Products, there may be interruptions in the energy supply. The Client will be informed as much in advance as possible about such interruptions and accepts that any liability on the part of Kenter for damage resulting from such interruptions is excluded.

### 9.4.

If the progress of Work and/or the delivery of Products is hindered or delayed by circumstances for which the Client is responsible, the Client must compensate the damage suffered by Kenter as a result.

### 9.5.

If the Work has to be stopped due to unforeseen circumstances - including (but not limited to) soil contamination, circumstances within the meaning of the Flora and Fauna Act or other laws and regulations, and failure to obtain a permit (in a timely manner) - the consequences will be at the expense and risk of the Client.

### 9.6.

The limitations and exclusions of Kenter's liability included in this article also apply to third parties whom Kenter uses in the performance of the Agreement.

### 9.7.

The Client indemnifies Kenter against claims from third parties (including parties affiliated with the Client), which are directly or indirectly related to the use of the Products and/or the performance of the Work. The Client will also compensate Kenter for all damage suffered by Kenter as a result of such claims.

## 10. Final provisions

### 10.1.

These Product Terms and Conditions come into effect on 1 November 2020 and can be referred to as "Product Terms and Conditions for periodic services for infrastructure Kenter B.V. 2020".

### 10.2.

These Product Terms and Conditions (including this article) are exclusively governed by Belgian law. All disputes relating to these Product Terms and Conditions will be submitted exclusively to the courts of Antwerp.

### 10.3.

These Product Terms and Conditions have been published at website <https://kenter.be/algemene-voorwaarden/>.

## **Additional lease provisions**

If Infrastructure is leased from Kenter (Leased Property), the provisions of Articles 1 to 10 apply, in addition to the previous Articles 11 to 16.

### **11. System responsibility and breakdowns**

#### **11.1.**

Kenter exercises the System Responsibility for the Leased Property as referred to in Article 0.

#### **11.2.**

The costs for resolving and rectifying any breakdown(s) of the Leased Property will be borne by Kenter, unless the breakdowns in question can be attributed to an activity of the Client, in which case those costs will be borne by the Client.

#### **11.3.**

The costs for making emergency arrangements to maintain the energy supply during a breakdown are borne by the Client.

### **12. Ownership and renunciation of the right of accession**

#### **12.1.**

The Leased Property is and continues to be the property of Kenter. The Client unconditionally and irrevocably waives any claim regarding ownership of the Leased Property.

#### **12.2.**

In all cases where the infrastructure leased by Kenter is a good within the meaning of Article 553 of the Belgian Civil Code, the Client will take all measures and perform all necessary actions and comply with all required formalities, including appearance before a civil-law notary, and to do so before the infrastructure is installed on the site, so the Client or any other person who owns the land on which the infrastructure will be installed duly waives the right of accession, with all costs being borne by the Client.

#### **12.3.**

Without permission from Kenter, the Client may not sublease the Leased Property or otherwise make it available to third parties.

#### **12.4.**

Without permission from Kenter, the Leased Property may not be encumbered with a right of mortgage or pledge or otherwise provided as security

to third parties. Neither may the Leased Property be encumbered with a personal or real right without Kenter's permission.

#### **12.5.**

If Kenter so demands, the Client will provide all cooperation (free of charge) for the establishment of real rights desired by Kenter, including a right of superficies for the Leased Property or an easement for granting access. The real rights will be agreed on in accordance with Kenter's standard terms and conditions, with the costs for establishing them being borne by the Client.

#### **12.6.**

If the Leased Property is destroyed as a result of circumstances for which the Client should have taken out insurance on the basis of the provisions of Article 16 and the Client has failed to do so, it must reimburse Kenter for the new value of the Leased Property.

### **13. Location**

#### **13.1.**

For the Leased Property, the Client will provide a location free of charge that meets the requirements set by Kenter. All costs associated with the design and adjustment of this location, as well as the installation and construction of the Leased Property at this location, will be borne by the Client.

#### **13.2.**

If someone other than the Client is the owner of the location referred to in the previous paragraph, the Client guarantees that the owner agrees and provides his unconditional cooperation with the establishment of (real) rights desired by Kenter as referred to in Article 0. If requested, the Client will provide Written proof of the aforementioned permission or cooperation.

### **14. Obligations of the client**

#### **14.1.**

The Client is obliged or guarantees that:

- a. the Leased Property is handled with care and used in accordance with the nature, purpose and technical properties of the Leased Property;
- b. measures are taken or permitted (if Kenter so demands) to protect the Leased Property against excessive loads, in order to prevent failure and preserve the lifespan of the Leased Property;
- c. the Leased Property is not subjected to loads that are heavier than the nominal load according to the applicable standards, to be corrected according to the place of installation;

- d. the system is selectively secured in relation to Kenter's Leased Property

**14.2.**

The Client or third parties engaged by the Client are not permitted to perform operating operations on the Leased Property or to carry out work on the Leased Property.

**15. Removal, relocation, modification and replacement****15.1.**

The Client is not permitted to remove, move, replace or make changes to the Leased Property without the consent of Kenter.

**15.2.**

If the Leased Property is removed, moved, replaced or changed at the request of the Client during the term of the Agreement, the costs will be borne by the Client. To the extent that the changes also result in changes to the fee owed, the changed fee will apply for the remaining term of the Agreement.

**15.3.**

If the Leased Property must be removed upon termination of the Agreement, the associated one-off costs will be borne by the Client. The costs for securing the system and the necessary measures will also be borne by the Client.

**15.4.**

Upon termination of the Agreement, the Client is obliged to make the Leased Property available to Kenter in good condition.

**16. Insurance**

The Client is obliged to insure the Leased Property during the term of the Agreement on the basis of new-for-old value against risks such as theft and fire. The Client must agree with the insurer on behalf of Kenter that Kenter will count as the co-insured with regard to properties installed at the Client's premises. Kenter may require written proof of this insurance.

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