

# General Terms and Conditions of Use

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## 1. Introduction

**The Koongo websites (.com, .de, .nl, .dk, .es, .gr) and hosted online application and software products (hereafter referred to as the "Service" or "Services") are owned and operated by NoStress Commerce s.r.o., a Czech registered company at the Czech Chamber of Commerce with number 28977475 located at Vyšehradská 1349/2, Praha 2, Czech Republic (hereafter referred to as "Koongo", "we" or "us"), in accordance with these General Terms and Conditions of Use ("Terms of Use"). These Terms of Use govern your use of the Service. By accessing or using the Service, you accept these Terms of Use in full and without reservation.**

We recommend that you read these Terms of Use, furthermore, Koongo may change these Terms of Use at any time. If the Terms of Use are updated, we will send a notification and ask you to accept them the first time you use the Service. You agree that these terms and conditions and possible changes are legally bounding. By using or accessing any part of the Service, you agree that you have read, understand, and agree to be bound by all of these Terms of Use. If you are using the Service on behalf of a company, you represent that you have the authority to bind that company to the terms of this Service.

Some products or services that become available as part of the Service may be subject to additional or different terms and conditions. If those additional terms and conditions conflict with these Terms of Use, those additional terms and conditions are in charge.

Koongo reserves the right to modify or terminate the Service for any reason, without notice at any time. We reserve the right to refuse Service to anyone for any reason at any time.

The Service is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Unauthorized reproduction or distribution of the software, or any portion of it, may result in severe civil and criminal penalties and will be prosecuted to the maximum extent possible under the law.

**IF YOU DO NOT AGREE TO THESE TERMS OF USE AND/OR THE PRIVACY POLICY OR OTHER POLICIES, GUIDELINES OR INSTRUCTIONS POSTED ON THE SERVICE, DO NOT USE THE SERVICE.**

**Updated: May 25, 2018**

### 1.1 The Company

The Company providing the Service is a private limited company NoStress Commerce s.r.o.:

- NoStress Commerce s.r.o.
- Vyšehradská 1349/2
- CZ-12800 Praha 2
- Czech Republic
- Business ID: 28977475
- VAT number: CZ28977475
- Registered by City court in Praha, part C, inset 157315.

### 1.2. Trademark

Koongo (TM) is registered trademark of the NoStress Commerce s.r.o.

## 2. Use of the Service

1. In order to use the Service, you are required to establish a user account (an "Account") for the Service. If you are provided with the password or any other piece of information as part of our security procedures giving access to your Account, you must treat such information as confidential, and you must not disclose it to any third party. User accounts are strictly personal and individual: it is not allowed to share a user account with other individuals. We have the right to disable any user account, whether chosen by you or allocated by us, at any time, if in our opinion you have failed to comply with any of the provisions of these Terms of Use.

2. Minors under the age of 18 are not permitted to use the Service. If the laws of your country of residence so permit, minor children may utilize the Service, provided that their parent or legal guardian establishes the account, of the account is created with such parent or guardian's approval. If you permit your minor child or legal ward to use the Service, you hereby agree to these Terms of Use on behalf of both yourself and your child or legal ward. You further agree that you are solely responsible for any and all use of the Service by your child or legal ward regardless of whether such use was authorized by you.

3. As long as you comply with these Term of Use, Koongo grants you a limited, revocable, non-exclusive, non-assignable, non-sublicensable right to access and use the Service as it is intended to be used and in accordance with these Terms of Use and applicable law. Koongo grants you no other rights, implied or otherwise.

4. You may not use the Service to disseminate any unlawful or other objectionable material, or to harm others or the Service itself. For example, you must not: (i) use the Service to harm, threaten, or harass another person, organization, or Koongo;

- (ii) damage, disable, overburden, or impair the Service;
- (iii) resell or redistribute any part of the Service or access to the Service, including the sale or purchase of an Account;
- (iv) use or attempt to use any unauthorized means to modify, reroute, or gain access to the Service;
- (v) use any automated process or service (such as a bot, a spider, periodic caching of information stored by Koongo, or metasearching) to access or use the Service, or to copy or scrape data from the Service; or
- (vi) obtain (or try to obtain) any data from the Service, except the data that we intend to make available to you.

### 3. Intellectual Property Rights

1. All information, data, text, documents, graphics, logos, designs, images, pictures, photographs, videos, weblogs, interactive features or other content, services or materials (or any part of them) accessible on the Service (hereafter referred to as the "Materials") are protected by copyright, trademarks, database rights and other intellectual property rights and are owned by or licensed to Koongo or are otherwise used by Koongo as permitted by applicable law. Nothing contained herein shall be construed as conferring by implication, estoppel or otherwise, any license or right to use the Materials other than as permitted in these Terms of Use. Unless you have permission from the creator or original content supplier, you agree not to download, cache, reproduce, modify, edit, alter or enhance any of the Materials.
2. Koongo owns and retains all proprietary rights to the Service and all associated copyrights, trademarks, brands, service marks, patents, object's library, characters, props or other proprietary rights under the law. All of the trademarks, service marks, brand and trade names and logos appearing on the Service are the proprietary intellectual property of the owners of such marks or names and you may not use, modify, remove or otherwise infringe any of such proprietary intellectual property.
3. By agreeing to use the Service you agree to receive alerts, promotional and other emails from Koongo. You may unsubscribe from these mailing lists as required by law via the Service.

### 4. Privacy and Security

We are committed to protecting your privacy and security. All personal data that we collect from you will be processed in accordance with our [Privacy Policy](#). You should review our [Privacy Policy](#), which is incorporated into these Terms of Use by this reference, and you confirm that when using the Service, you consent to your personal data being used and processed in accordance with our [Privacy Policy](#).

### 5. Disclaimers of warranty

PLEASE NOTE THE FOLLOWING IMPORTANT DISCLAIMERS OF WARRANTIES:

KOONGO DOES NOT WARRANT THAT THE FUNCTIONAL ASPECTS OF THE SERVICE WILL BE ERROR FREE, OR THAT THE SERVICE WILL BE CONSTANTLY AVAILABLE, OR AVAILABLE AT ALL, OR THAT TRANSMISSION OF DATA TO / FROM THE SERVICE WILL OCCUR AT ANY MINIMUM SPEED OR THAT THE SERVICE OR THE SERVERS THAT MAKE IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. KOONGO DOES NOT WARRANT OR REPRESENT THAT ANY CONTENT ASSOCIATED WITH OR USED IN CONNECTION WITH THE SERVICE IS FACTUAL OR ERROR-FREE OR THAT THE USE OF SUCH MATERIAL WILL NOT INFRINGE RIGHTS OF THIRD PARTIES. KOONGO RESERVES THE RIGHT TO CORRECT ANY ERRORS ON IN THE SERVICE.

WITHOUT LIMITING THE FOREGOING, YOU ACKNOWLEDGE AND AGREE THAT EVERYTHING ASSOCIATED WITH THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. KOONGO MAKES NO WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS OR TIMELINESS OF THE MATERIAL CONTAINED ON THE SERVICE OR RESULTS TO BE OBTAINED FROM USING THE SERVICE. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, KOONGO DOES NOT MAKE ANY REPRESENTATION ABOUT THE QUALITY OF ANY PRODUCT, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH USE OF THE SERVICE.

You understand that in using the Service, sensitive information will travel through third party infrastructures which are not under our control (such as third-party servers). we make no warranty with respect to the security of such third party infrastructures.

Any material downloaded or otherwise obtained through the use of the Service is accessed at your own discretion and risk, and you will be solely responsible for any damage to your computer system or loss of data that results from the download of any such material.

No advice or information, whether oral or written, obtained by you from Koongo or through or from the service shall create any warranty not expressly stated in this terms of service.

### 6. Limitation of Liability

YOU EXPRESSLY UNDERSTAND AND AGREE THAT WE AND OUR AFFILIATES SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR ANY OTHER DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF, OR RESULTING FROM, (A) THE USE OR THE INABILITY TO USE THE SERVICE; (B) THE USE OF ANY MATERIALS, USER CONTENT OR OTHER MATERIAL ON THE SERVICE OR ANY WEBSITE OR WEBSITES LINKED TO THE SERVICE, (C) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE; (D) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (E) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (F) ANY OTHER MATTER RELATING TO THE SERVICE. IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE) EXCEED THE AMOUNT PAID BY YOU IN THE LAST TERM, IF ANY, FOR ACCESSING THE SERVICE, AND IN NO EVENT EXCEED ONE THOUSAND EURO (€1000.00). IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICE, OR WITH ANY OF THE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS THE DISCONTINUATION OF YOUR USE OF THE SERVICE. IF ANY PORTION OF THIS LIMITATION OF LIABILITY IS FOUND TO BE INVALID, LIABILITY IS LIMITED TO THE FULLEST EXTENT PERMITTED BY LAW.

### 7. Indemnification

You hereby indemnify Koongo and undertake to keep Koongo indemnified against any losses, damages, costs, liabilities and expenses (including without limitation legal expenses and any amounts paid by Koongo to a third party in settlement of a claim or dispute on the advice of Koongo legal advisers) incurred or suffered by Koongo arising out of any breach by you of any provision of these Terms of Use, or arising out of any claim that you have breached any provision of these Terms of Use.

### 8. Third Party Links

The Service may contain links to or allow you to interact with and make use of other independent third-party websites, products or services ("Third-Party Services"). Access to Third-Party Services is provided solely as a convenience. Third-Party Services are not under Koongo's control and Koongo does not necessarily endorse the content, advertising, products, services or other materials on or available from such Third-Party Services. Your use of any Third-Party Services may be subject to the third-party provider's terms and conditions and privacy policy and may involve the disclosure or transfer of information from or about you to the third-party provider. You will need to make your own independent judgment regarding your use of and interaction with any Third-Party Services. You acknowledge and agree that Koongo

is not responsible for the availability of any Third-Party Services and that Koongo shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with your use of or interaction with any Third-Party Services.

## 9. Governing Law and Dispute Resolution

1. These Terms of Use shall be governed and construed in accordance with the laws of Czech Republic, except provisions that are legally required to follow law of your country or the European Union.
2. Any disputes arising from these Terms of Use or using the Service are to be settled by the courts of law in Ústí nad Orlicí, Czech Republic.
3. Our failure to enforce any right or provision of these Terms of Use will not be considered a waiver of those rights.
4. If any provision of these Terms of Use is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect.

## 10. Miscellaneous

1. All terms and conditions of these Terms of Use which are destined (whether expressed or not) to survive the duration or termination of the agreement between Parties shall so survive.
2. These Terms of Use constitutes the final and complete expression of the Parties' agreement and understanding with respect to the subject matter herein and supersede all other prior agreements. Terms of Use are an integral part of the Agreement between Parties. The Agreement and the Terms of Use are prepared in the English language. The Agreement can be concluded in the English language.
3. Your use of the Service does not give you any authority to act as an agent, legal representative or employee of Koongo or of any third party with whom Koongo has a relationship, and you agree not to represent that you are otherwise.
4. Koongo may transfer, sub-contract or otherwise deal with Koongo's rights and/or obligations under these Terms of Use without notifying you or obtaining your consent. You may not transfer, sub-contract or otherwise deal with your rights and/or obligations under these Terms of Use.
5. Should any of the provisions of these Terms of Use be determined to be null and void, invalid and/or otherwise unenforceable, this shall in no way affect the legality, validity and/or enforceability of the other provisions of these Terms of Use. Moreover, upon such determination of one or more provisions of these Terms of Use being, in whole or in part, void, invalid or unenforceable, the Parties shall negotiate in good faith in order to replace the provision in question with a valid and enforceable provision which in its economic effect complies most with the void, invalid or unenforceable provision.
6. These Terms of Use and any renewal and/or modification thereof shall be governed by and construed in accordance with the laws of the Czech Republic. Any dispute or difference arising out of or in connection with these Terms of Use shall be the exclusive jurisdiction of the Czech courts.

## 11. Support

During office hours a number of support services are provided to assist with issues of an operational or administrative nature encountered during use of Koongo platform. Please note that only Koongo related tasks are undertaken.

Office hours are defined as Monday - Friday from 9 AM to 4 PM (GMT). Response time and actions taken to resolve a problem are based on the assessment of the business impact of the reported technical issue.

Initial response time is defined to be the first contact by a Support Engineer after the incident has been logged in the support ticket system. Default initial response time for Koongo customers is 24 hours (except weekends). A status update will be communicated to a customer if an incident cannot be resolved immediately or more information is needed. A final follow-up with a customer occurs on a resolution date. A ticket will remain open until a confirmation is received that a customer is satisfied with a resolution.

The issue is considered as solved and the related ticket is closed when there is no email received from the customer within 4 days from the last Koongo reply.

## 12. Questions

If you have any questions about this Terms of Use, please contact us. Koongo will be happy to answer any questions or concerns you might have.

Please feel free to contact us through our website or write to us at:

**NoStress Commence s.r.o**

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