# General Terms and Conditions of Business of KUMAVISION AG

**1 General information and area of application**
a) All contracts governing deliveries and services that KUMAVISION AG, Oberfischbach 3, 88677 Mardorf ("we") conclude(s) with companies, legal persons under public law or special funds under public law (hereinafter referred to as "Customer") shall be subject to the following terms and conditions of business.
b) Any agreements on deviations, supplements or amendments shall only be valid insofar as we have given our explicit consent in writing. Contradictory Terms and Conditions of Business of the Customer shall not constitute an integral part of the contract, even if they have not been explicitly opposed.
c) The content of the contract shall otherwise conform to the written agreements.
d) "Goods" for the purposes of this contract shall be all items to be handed over in agreement with this contract, including software, also insofar as they are made available non-physically, e.g. electronically.
e) Reference to legal requirements, enclosures or other documents shall, unless otherwise explicitly stipulated, relate to the respectively valid version. Any references to the contract shall include the enclosures thereof.

**2 Conclusion of the contract; subcontractors**
a) Our offers are in principle non-binding and serve as a non-committal request to the Customer to place a binding order for certain goods or services. This binding order placed by the Customer shall only be deemed accepted if we confirm it in writing or have performed the delivery or service.
b) We shall be entitled to fulfil our contractual obligations by commissioning suitable subcontractors.

**3 Provisions relating to the acquisition of standard software**
a) Unless otherwise agreed in writing, the software subject to this contract shall exclusively be standard software that has not been developed or produced specifically for the needs of the Customer. The Customer is aware that according to the state-of-the-art, it is impossible to develop standard software such that it is faultless for all application conditions.
b) Should we be obliged to hand over the object code, it shall be handed over on a data carrier or by the Customer accessing the notification of a download link.
c) On no account shall there be any claim to the handover or disclosure of the source code.
d) Should we be obliged to install software, the Customer shall ensure that the requirements of the IT system environment communicated to him are fulfilled.
e) During the course of any possible test operations and during the installation, the Customer shall ensure the presence of an adequate number of competent, trained staff and, if necessary, halt any other work on the IT system. Prior to each installation, the Customer shall ensure that a data backup has been carried out for his data.

**4 Conditions for producing individual software**
a) For producing individual software and for carrying out individual extensions, or customised adjustments to software produced or delivered by us, the following conditions shall be valid:
b) Should the Customer intend to acquire standard software from us (to be specified more exactly), and have this adapted to the requirements of his business, we shall deliver the standard software and the adapted software to the Customer, and at the request of his staff, integrate it against payment in the software and, if required, hold training courses.

**5 Documentation**
a) For the standard software the Customer shall, depending on the manufacturer, receive online support in the system as program documentation and guidance, or a user manual.
b) For other software, including the customised programs, the Customer shall receive installation instructions and - at our discretion - either online support or a program description.
c) The deviations from the standard software shall be documented by us in accordance with the KUMAVISION in-house guidelines.

**6 Rights of use**
a) Should software be handed over exclusively for use, we shall remain the exclusive owners or holders of the rights.
b) In the case of **standard software,** we shall grant the Customer in the case of doubt, a simple (non-exclusive) right, unlimited in time, that is irrevocable and non-transferable, to use this software on his IT system to the agreed extent. (i) Should part of the object of the contract be the supply of software of a third-party manufacturer, the conditions of use of the latter shall be valid; we, in this case, merely provide the licence contract which is concluded directly between the manufacturer and the Customer. These rights of use shall be provided to the Customer upon request - and insofar as requested, also before concluding the contract. (ii) Unless otherwise agreed to in writing, a network licence, (multi-user licence) shall not be an object of the contract. In the case of a network licence, the right of use shall only be valid for the single stations laid down in writing, of the contractually determined local network. (iii) In the case of a change in hardware, the software shall be deleted completely from the previously used hardware. Any isochronous read-in, storage or use on more than only one hardware unit shall not be permitted.
c) The Customer shall be obliged in all cases to take suitable measures to prevent any unauthorised use by third parties, whereby also branches, companies associated with the Customer (e.g. as licence holder), shareholders or establishments of the same holder, separated spatially or organizationally, shall be deemed "third persons".
d) With regard to the **production of individual software and carrying out individual extensions or individual customisations**, the Customer shall, in the case of doubt, receive a simple (non-exclusive) right that is unlimited in time and non-transferable, to use these for his own internal business purpose. This right shall include the contractually agreed, continuing work results (e.g. intermediate results, or training-course documentation and auxiliary materials).
e) **Should software products of third parties be changed** by us, the respective licence terms, as a supplement to paragraph 6 d, shall be given priority for granting this right.
f) No further rights shall be granted on any account other than those regulated in paragraph 6 d.
g) Insofar as the delivery is carried out together with the IT system **Open Source Software**, all the rights of the Customer in respect of this software shall comply with the respective provisions of the owner of the rights or of the distributor. Prior to delivery of the respective systems, we inform the Customer of the integration of software which is subject to the GNU Public Licence (GPL) of each version or other so-called Copyleft licences.
h) Furthermore, unless agreed otherwise in writing (e.g. in respect of the NAV development tools), or imperatively required by law due to legal provisions, the Customer as a licence holder shall not have the authority to change, process, copy or reproduce the software or text materials handed over to him (codes, documentation) himself or by third parties. It shall not be permissible to remove or change any given copyright notices or registration marks such as registration numbers in the software, in particular.
i) Unless otherwise stipulated in the above licence terms, the resale, lease for purposes other than acquisition, or lending of the software, as well as any provision for independent use shall be permissible within the limitations set by law and only under the following additional cumulative conditions: (i) any possible original data carriers are handed over to the purchaser or user, (ii) the Customer informs us in writing of the name and address of the purchaser or user, (iii) the purchaser has declared himself in agreement with our terms of delivery and service, and the conditions of use of third-party manufacturers whose standard software is integrated in the software, and (iv) the Customer has deleted or destroyed all the remaining copies or integral parts of the software from his system and from all the external data carriers, including back-up copies, in such a way that he no longer has any possibility to use the software or parts thereof, and is able to prove this to us upon request.
j)The above license terms shall apply to any form of handover of software, whether known or unknown, including online distribution.

**7 Prices, remuneration, terms of payment**
a) All the prices shall be in EUR ex works, plus despatch, insurance and packaging costs and the VAT valid at the time of delivery. We shall not assume any guarantee for the cheapest form of despatch.
b) Unless otherwise stipulated in this contract, invoices shall be due for payment immediately and without any deduction.
c) Unless any deviating agreements have otherwise been made, the date of payment for the delivery of software and hardware shall be determined according to the progress of the delivery; for software customisations and other services, payment shall be as according to the time required. The expended times shall be charged after rendering the services, using the service order or internal confirmation of service.
d) Should a date for payment not be agreed, the beginning of the default shall be defined in accordance with the legal regulations.
e) The Customer shall be in default of payment without further reminders, 20 days after rendering performance and receipt of an invoice or an equivalent payment schedule.
f) In the case of a default in payment, the interest rate of the interest on arrears shall be 8% above the basic interest rate. The assertion of any further damages or a higher interest rate for any other legal reason shall not be excluded. Authoritative for the punctuality of the payments of bank transfers shall be the date of the credit entry on our account. Cheques shall be deemed accepted as payment only after encashment of the amount minus any expenses.

g) Notwithstanding the Customer's settlement terms, we shall also be entitled to set payments off against the oldest outstanding invoice.
h) In the case of continuing obligations with pricing on the basis of estimated values, or the values of disclosed calculation bases, we shall be entitled, in the event of these bases being considerably exceeded, for which we are not responsible, to undertake a price adjustment to the extent necessary for compensating for this exceedance; in the case of doubt, an exceedance of 20% or more shall be deemed considerable.

**8 Set-off and retention; assignment; partial performance**
a) The Customer shall only be entitled to set off against undisputed or legally ascertained claims, and additionally to exercise his rights of retention only if these originate from the same legal relationship.
b) In the case of default, we shall have the choice of either withholding further services, or of making further services dependent on producing an appropriate security. Further rights shall not be excluded thereby.
c) In the case of existing defects, the Customer shall not be entitled to a right of retention, unless it is evident that the delivery is defective, or that the Customer is clearly entitled to refuse the acceptance. In such a case, the Customer shall only be entitled to retention insofar as the retained amount is in reasonable proportion to the defects and the anticipated costs for supplementary performance (especially for remedying a defect).
d) The assignment of claims asserted against us shall be excluded. This shall not be applicable if the legal transaction on which this claim is based, is a commercial transaction for both parties.
e) Partial deliveries, partial services and respective accounting effected by us, shall be permissible if they are not unreasonable for the Customer.

**9 Delivery and passing of risk**
a) Irrespective of the provisions concerning the transportation costs, the risk of destruction and deterioration shall pass to the Customer with delivery to the person or organization commissioned with the shipment, even if we carry out the shipment ourselves.
b) Upon request, we shall cover the delivery by a transport insurance at the Customer's expense.

**10 Reservation of self-supply; performance times, places and obstacles; default**
a) For services to be rendered within the scope of our contractual obligation we purchase hardware, standard software and, if applicable, services carried out by third parties; our obligation to perform is therefore subject to the correct and due fulfilment by these third parties.
b) Planned dates or time limits shall not be guaranteed. Any deadlines or dates to be valid as binding between the parties shall be agreed to explicitly.
c) The obligation to render performance by certain deadlines or on certain dates shall require that the Customer has fulfilled the relevant services and obligations incumbent on him. Should this not be the case, the dates and deadlines shall be extended to the appropriate extent. This shall apply accordingly if the Customer is in default of payment, without an explanation being due from us.
d) Any hindrances of performance for which no party is responsible, shall lead to a respective extension of the deadline for performance. This shall be valid particularly in the case of force majeure, war, natural catastrophes, breakdowns in transportation or business operations, impeded import, electricity cuts and lack of raw materials, official directives and riots. We shall be entitled to withdraw from the contract if the hindrance of performance continues for an unforeseen time and the purpose of the contract is endangered.
e) An extension of the deadline for performance shall similarly be applicable for as long as we negotiate a change in performance, or we offer a follow-up quotation after the assumptions in our offer, that have become an integral part of the contract, have proved to be inappropriate.
f) The agreed days for performance may be called up within the normal working hours.
g) The place of performance shall be the registered office of KUMAVISION.

**11 Retention of ownership**
a) We shall retain title to the items delivered by us up until the receipt of all payments arising from the entire business relationship.
b) Should the manufacturer or supplier already have a retention of ownership of the delivery item, we shall acquire a contingent right to the transfer of title instead of the ownership.
c) In the case of attachments or other interventions of third parties, the Customer shall notify us immediately thereof in writing.

**12 Limitation of liability and partial blame**
a) For damage arising other than fatal injury, bodily injury or damage to health, we shall only be liable insofar as this damage arises as a result of wilful intent or gross negligence, or negligent violation of an essential contractual obligation by us or our vicarious agents. An essential contractual obligation is one that must be fulfilled in order for the proper implementation of the contract to be at all possible, and for which compliance may be relied upon by the Customer as a matter of course. We shall only be liable for foreseeable damages, the occurrence of which must typically be expected.
b) The aforementioned regulations shall be valid for all claims for damages (in particular claims for damages in addition to the performance, and claims for damages instead of performance), and irrespective of the legal grounds, particularly due to defects, the breach of duties arising from the contractual obligation, or from an unlawful act. They shall also be valid for the claim to the compensation of fruitless expenditures. Any liability for damages beyond this shall be excluded.
c) A change in the burden of proof to the Customer's disadvantage shall not be related to the above regulations.
d) With regard to the loss of data, we shall be liable in conformity with the above sections only, if such a loss would not have been avoidable, even if the Customer had taken appropriate measures for data protection. Insufficient data protection is deemed to be the case particularly if the Customer has failed to take precautions, i.e. by taking appropriate protective measures commensurate with the state-of-the-art against internal disturbances and against external influences that can endanger individual data, or an entire data stock.
e) Liability due to interruption, disturbance or other incidents causing damage, based on telecommunications services by us or third parties, for which we are liable, shall be restricted to the amount of recourse possible for us against the respective provider of the telecommunications service. We shall not be liable for the operability of the communication installations for the servers that are an object of the contract, in the case of electricity cuts and server breakdowns that are not within our scope of responsibility.
f) We shall not be responsible for material defects in the supplies that we have purchased from third parties and passed on to the ordering party in unchanged form; the liability in the case of wilful intent or negligence shall remain unaffected.
g) Any claims arising from a guarantee given by us for the quality of the purchase item and from the Product Liability Act shall remain unaffected.
h) The limitation period for minor contractual infringements shall be limited to two years.
i) The liability for open-source software handed over free of charge shall be excluded.
j) No liability shall be assumed for the contents of the data backups of the Customer.
k) In the case of a claim from the guarantee or liability, partial blame of the Customer shall be taken into consideration accordingly, particularly in the case of insufficient error messages or insufficient data protection.

**13 Defects of quality and defects of title**
a) The Customer shall inspect our services immediately upon delivery and/ or performance, insofar as this shall be appropriate in correct business practice, and in the case of a defect, shall immediately give notification thereof.
b) Should the Customer fail to give such notification, the service shall be deemed approved, unless a defect is concerned that was not evident during the inspection. Should such a defect become apparent at a later time, notification thereof shall be given immediately after determining it; otherwise, the service shall be deemed approved, even in respect of this defect. If the defect was fraudulently concealed, this regulation shall not be applicable.
c) Despatch of the notification shall be sufficient for protecting the Customer's rights. A qualified description of the defect shall be enclosed with the notification, stating the time and the circumstances under which the defect occurred, and if possible, enclosing the protocol on the error messages displayed.
d) The warranty for services shall expire if the Customer or third persons make changes to the software or to the set-up parameters without our consent. This shall not be applicable if the Customer provides evidence that the defect was not caused by the changes, and that these changes did not render the identification of the defect and its remedy more difficult.
e) In the case of defects of title for which we are accountable, we shall be entitled, at our discretion, to take suitable measures ourselves for removing the rights of third parties, or the assertion thereof restraining the contractual use of the contractual item, or to change or replace the contractual item in such a way, that the external rights of third parties shall no longer be infringed, if and provided that the agreed functionality of the contractual item is not basically impaired thereby. Should this fail to be possible under economically reasonable conditions or in a reasonable form, the

Customer shall be entitled to withdraw from the contract. Under these conditions we may also withdraw from the contract.
f) The Customer shall immediately inform us of the assertion of rights of third parties and shall grant us and a possible third-party manufacturer full powers of attorney and the powers necessary for defending the contractual item against the rights asserted by third parties. Should we be responsible for the defect of title, we shall reimburse the Customer for the necessary expenses incurred for legal proceedings.
g) We shall not be responsible for disadvantages arising due to:- the Customer failing to inform us immediately of the claims of third parties, the Customer acknowledging the maintained infringement of the protective right, or the Customer failing to leave disputes (including any extrajudicial regulations) to us, or failing to conduct these only with our consent.
h) The following regulations concerning material defects shall otherwise be valid accordingly.
i) In the case of material defects, we shall guarantee at our discretion to remedy the defect by supplementary performance in the form of repair or replacement.
j) We shall be entitled to remedy defects by making changes to the software (including updating - by release, update, service packs, hot fixes, etc.), provided that the contractual performance is not changed thereby to a more than insignificant extent.
k) We shall be permitted to provide a functional intermediate solution until the defect has been remedied.
l) We shall be authorised to carry out error analyses and error corrections using data communication installations on the Customer's computers.
m) To enable us to effect the repairs and replacements considered necessary by us, the Customer shall, after notifying us, allow us the appropriate time and opportunity required for rectification; otherwise we shall be exempt from liability for the consequences resulting therefrom.
n) The repair shall be deemed to have failed after the third unsuccessful attempt, if nothing to the contrary arises, particularly due to the nature of the item or the defect, or other circumstances.
o) When assessing the 'reasonable deadline' and 'sufficient opportunity', consideration shall be given to the fact that any possible changes made to the software by us are to be agreed to with the manufacturers, released by them, or even carried out by them themselves, as the case may be.
p) Withdrawal shall be excluded if the reduction in the value or the quality of our performance is only insignificant; and similarly if the Customer is in default of acceptance, or shares a large part of the responsibility for the defect.
q) Should the Customer wish to claim for damages instead of performance, the Customer shall set us a four-week time limit prior to this with the warning that he will refuse performance after expiry of the time period.
r) In the case of withdrawal, the Customer shall remunerate the utilisation availed of, accordingly. The pro-rata purchase price shall be taken as a basis for remunerating the utilisation, taking into consideration the period of use for real operation in proportion to the total anticipated period of use (fiscal depreciation period), whereby an appropriate deduction shall be provided for the impairment of the programs due to the defect that led to the withdrawal. For calculation purposes the period of use of the software shall be assumed to be 4 years.
s) The warranty claims for services shall become statute-barred at the end of one year following the performance and/ or delivery, or if agreed, after acceptance by the Customer, provided that no harm to life, body or health, wilful or grossly negligent breach of duty or malicious behaviour is determined, or a guarantee has been given for the quality, or a procurement obligation has been assumed.

**14 General co-operation; particular obligations to co-operate in the case of defects**

a) The successful fulfilment of the agreed services shall require the co-operation of the Customer. He shall particularly keep us sufficiently informed, render his own services on time and make the necessary decisions in good time. Obligations to co-operate are therefore major obligations and constitute an essential basis for business.
b) Each party shall notify the other respective party of a contact partner who shall be responsible for the contractual handling of the performance relationship between the parties, and shall be authorised to submit the respective declarations. The contact partners must be qualified accordingly and authorised to answer the questions arising in connection with executing the individual contracts and shall be vested with the necessary commercial decision-making authorisation. Should a party intend to change the contact partner it has named, it shall immediately inform the other party thereof. However, the latter shall only be entitled to object to the replacement on important grounds. The objection shall be effected immediately in writing, but at the latest within one week of being notified.
c) The contractual parties assume that contractual IT systems are operated exclusively by employees who have undergone adequate training specifically for their activity.
d) Should we conduct work at the Customer's location, the responsibility and supervision thereof shall lie with the Customer.
e) The Customer shall be obliged to notify any detected software defects in accordance with 13 lit. a. In the event of repair, the Customer himself, shall provide us with any information required for the fault diagnosis and fault elimination - if necessary upon request - and in the case of a repair, via data transmission or telephone, he shall provide us a trained, competent employee as assistance. In the case of supplementary performance on site, we shall be given unhindered access and if required, other work on the IT system or in the Customer's network shall be stopped.
f) The Customer shall carry out an inspection immediately following any significant change to the IT system, installation, elimination of defects, maintenance work, or any other interventions on the IT system, for determining whether the functionality of his data protection routines (completeness and restorability) is still given, and shall document the result in writing.
g) Should the Customer fail to fulfil his obligation to co-operate fully, in good time, or correctly in any other way, our performance obligations shall be suspended until these obligations to co-operate are performed.
h) Should the Customer make a claim against us for supplementary performance, and should it prove that a claim to supplementary performance is not given (e.g. user error, incorrect handling of the goods, absence of a defect), the Customer shall reimburse us all the costs incurred in connection with the inspection and supplementary performance, unless he is not responsible for the claim made.

**15 Acceptance of performance**

a) After installing the goods, particularly software, and testing them, we shall inform the Customer in writing of their functionality and request the Customer to accept them.
b) The Customer may then test the functionality of the goods. In the event that acceptability is the case, the Customer shall immediately confirm the acceptance in writing, at the latest however, within one week.
c) Should acceptance by the Customer fail to take place within this time limit, the acceptance shall nevertheless be deemed to have taken place, if the customer does not notify us within this period of significant errors which prevent acceptance, because: (i) the Customer fails to report to us in a reproducible form any detrimental deviations of the Services from the agreed quality which were detected by him in the course of the functional test or which were not detected due to gross negligence; (ii) the Customer fails to comply, or does not fully comply with his obligation to participate in the functional test, insofar as there are no deviations which would have been detectable if he had participated in the functional test in accordance with his duty. The receipt of the letter by the Customer shall be decisive for the commencement of the time limit. If the Customer uses the software or renders payment without any written complaint, this shall be equivalent to an acceptance.
d) Acceptance cannot be refused due to the existence of insignificant defects.
e) At our request, partial acceptance shall be carried out for delimitable components that can be used independently, or for components that other components build up on, if the goods to be taken delivery of are testable separately. If all the components have been accepted, the last partial acceptance shall be deemed the final acceptance.

**16 Contractual items and performance obligations for services**

a) We shall render our services exclusively in the IT sector and, insofar as they shall relate to software, restrictedly to our own software and standard software - to be specified in more detail - of third parties (particularly Microsoft Dynamics); in the case of any information given outside this sector or outside an existing consultancy agreement, it shall concern non-binding assessments and recommendations based thereon.
b) **Should part of the contractual item consist of introductory support services** within the scope of training for IT systems supplied by us or recommended for selection, we shall provide the Customer, or third persons named by him, with all the knowledge and information for being able to use these IT systems which shall be defined beforehand in a separate system specification.
c) **Should part of the contractual item consist of consultancy and support services** (e.g. within the scope of a hotline), we shall provide our special know-how by way of trained personnel, relating to a specific software product or IT system in operation at the Customer's location, within the scope of a brief consultation (telephone, chat, at our discretion). Offering a hotline shall not serve as a replacement for the user training or the use of a manual for reference purposes. We shall not be obliged to answer the Customer’s enquiries that are clearly due to the fact that there is no training, or no sufficient training provided on the part of the

Customer. Enquiries over the hotline shall in principle only be made by the agreed contact persons at the Customer's location, unless there is an emergency.
d) **Project management tasks** shall be rendered by us upon request under special conditions.
e) **Should part of the contractual item consist of maintenance services and updates**, (i) the extent of the IT systems shall be determined by an inventory to be carried out by us prior to concluding the contract and then signed, thus becoming an object of contract; (ii) the special conditions of the respective provider or sub-contractor shall be valid for maintenance services provided by us or subcontracted.
The maintenance shall comprise (i) software maintenance in the respectively assigned program version, i.e. the support and maintenance of the original functional capability and the reliable operational capability of the contractual item; (ii) a verification of the essential, original functionalities of the programs; (iii) transmission and installation of program upgrades (patches, releases, updates) and also the support and maintenance of their functional efficiency; (iv) maintenance and repair of the contractual software (operating system and application programs, particularly via fixes or updates); (v) elimination of reproducible program errors. (vi) There shall be no entitlement to a new manual or user documentation for each change in the software - only in the case of essential changes that strictly require new instructions. (vii) The maintenance may, at our discretion, also take place exclusively within the scope of remote maintenance.
For the term of a framework contract regarding updates, a procurement/ purchase obligation is valid for the respectively available updates, unless otherwise excluded by the parties.
**Excluded from the maintenance shall be:-** (i) the development, delivery and installation of program versions that, to a major or substantial extent, present new programming work or new products, or significant further developments, incl. upgrades and updates; a separate agreement shall be made for this, if applicable; (ii) programming work, particularly changes in the source code or object code; a separate agreement shall be made for this, if applicable; (iii) damage to the contractual IT systems caused by wilful or wanton destruction by the Customer or his legal representatives, employees, vicarious agents or by other third parties, or due to force majeure; (iv) computer programs that were changed as a result of the Customer's own programming work, as well as IT systems that have been damaged or changed due to these changed programs; (v) the establishment of operational readiness as a result of changes in the Customer's location and any subsequently necessary adjustments and updates; (vi) the elimination of the effects of operating errors or improper use.
The maintenance work shall be documented in certificates of performance that shall constitute an integral part of the contract.
f) **Should part of the contractual item consist of "cloud services", our performance shall then be such** that we (i) shall provide and service cloud-based software and memory space for remote use on our servers or servers of selected third-party providers, or provide the Customer with software-based functionalities for billing according to the scope of use ("software as a service") ("Services"); the scope, type and quality of the services provided are governed by the applicable product regulations/service descriptions of the respective services. The availability of the services is subject to the relevant service level agreements; (ii) shall make the services available to the Customer via the Internet against payment for the term of this contract; for this purpose, we shall make the services available on servers that are accessible for Customers via the Internet; (iii) shall grant the Customer within the scope of the contractual purpose, the non-exclusive and non-transferable right to use the services as intended; (iv) shall assign the Customer memory space - to be specified in more detail - for storing his data to the defined extent; the Customer may reorder respective allotments subject to availability; (v) shall commit ourselves to take suitable precautions against loss of data and for preventing unauthorized access to the Customer's data by third parties, make backups particularly for this purpose, inspect the Customer's data for any malware, and install firewalls according to the state-of-the-art;
**the liability of the Customer shall then be such**, that (i) the Customer shall not be authorised to allow a third party to use memory space or services, partially or completely, against payment or free of charge; (ii) the Customer, in the event of services being made use of by unauthorised third parties using the Customer's access data, shall be liable for charges incurred thereby within the scope of civil liability up until the receipt of the Customer's request for changing the access data, or the notification of the loss or theft, insofar as the Customer is to blame for the access by the unauthorised third party; (iii) the Customer shall be obliged to indemnify us from all claims asserted by third parties, arising from the data stored by him, and reimburse us the necessary costs incurred for us due to possible legal infringements; (iv) we shall be authorised to block the memory space or services immediately, if there are reasonable grounds for suspecting that the stored data is illegal or violates the rights of third parties, particularly if courts, authorities, or other third parties inform us thereof, whereby we shall inform the Customer immediately of the blocking and the reason therefor, and shall remove this as soon as the suspicion has been invalidated.
At the end of the contractual relationship we shall, at the Customer's request, provide the data stored by the Customer in its respective state existing at this time, on suitable data carriers or by remote data transmission (at our discretion), charging for the expenditure incurred. The Customer shall be obliged to accept this. Should no request be made, we shall delete the Customer data available to us 14 days after termination of the contract; the same shall apply in the case of a handover of the data to the Customer, effected in connection with the termination of the contract, insofar as the Customer gives no notification within this time-limit of 14 days that the data handed over to him is not legible or not complete. Should no notification be given, this shall be deemed as agreeing to the data being deleted. When handing over the data, we shall specifically point out to the Customer the significance of his notification.
g) The above services pursuant to lit. a to f shall be rendered without exception on the basis of a contract of service.
h) **General performance requirements:**
**Respectively implemented services and technology**: For the respective individual service, we shall implement separately specified IT systems and services, whereby the right to make changes - also short-term changes - especially in accordance with the state-of-the-art, shall always remain reserved. Insofar as it shall seem opportune to us from a professional point of view, we shall reserve the right to reach the contractual service goal - alternatively or cumulatively - by taking other measures.
**IT systems/ Storage locations/ Storage media**: We are in principle free in the choice of the systems, storage location and storage media.
**Regulatory customisation/ adaptation/ adjustment requirements**: If the technical or legal requirements change, the change request procedure shall be carried out.
i) **Particular co-operation in the case of services; exemption from liability**
The Customer shall ensure that all its required co-operation services necessary for rendering the agreed service, are rendered timely, fully and free of charge for us. All the services to be rendered by the Customer shall be a prerequisite for our performance in conformity with the contract. The following obligations to co-operate, in particular, are primary duties and the key basis for doing business: (i) Providing detailed information on the intended general purpose and scope of application of the IT systems, as well as specific requirements and facts that may be relevant for the system environment. (ii) The Customer undertakes not to save any contents, the provision, publication and use of which violate applicable law or agreements of third parties. (iii) The Customer shall be responsible for the input and maintenance of his data and information required for using the services, and shall be obliged to check his data and information for viruses or other damaging components before entry, and to use suitable state-of-the-art protection programs and access authorisation concepts for this (particularly user ID/ login, password, that are to be kept secret). (iv) The Customer shall, insofar as this is possible, ensure our access to his information and communication systems. For hotline services, remote access is a mandatory requirement. Furthermore, the Customer shall provide adequate office facilities with suitable equipment for providing the service. (v) The Customer shall be obliged to inform us immediately in writing of any changes in location, modifications or changes to the contractual IT system and the software installed on it, which were not conducted or initiated by us or by a partner commissioned by us. (vi) In the case of training courses, the Customer shall ensure that the trainees have a basic knowledge at least, in the IT sector.

## 17 Change request procedure

The Change request procedure shall be applicable for each change in the contractual content, especially the services, and in all other cases for which the application of the change request procedure is required by the contract. The change request procedure is initiated when a party makes a change request. Each party shall process the change request made by the other party without delay. The change request procedure shall end in the case of an agreement being made between the parties for concluding a change agreement Neither party shall be obliged to render services in accordance with a change request before a respective change agreement has been concluded. Should such services nevertheless be rendered, the rendering party shall bear the costs subsequently incurred itself. Each party shall bear the costs itself that are incurred by it in connection with a change request procedure.

## 18 Data protection and secrecy

**a) Order/ Order Data Processing** Insofar as we collect, process and use personal data when rendering the services, this shall be carried out exclusively on behalf of, and in accordance with the individual instructions of the Customer. The respective contract on the order data processing pursuant to Art. 28, para. 3 DSGVO (General Data Protection Regulation (GDPR)) - to be concluded separately - shall regulate the details.

**b) Business secrets:** We shall only engage employees for rendering services, who were made aware, by appropriate measures before commencing their respective activity, of the legal regulations on data protection and the special data protection requirements, and were obliged comprehensively in writing to observe confidentiality, including the maintenance of data confidentiality, and keeping business and company secrets of the Customer confidential.

**c) Subcontractual relations: To the extent that we engage sub-**contractors for services that include the acquisition, processing or utilisation of personal data, we shall seek the prior written consent of the Customer and, by way of a contract or other legal instrument under Union law, impose the same data protection obligations on the subcontractors, that are stipulated in the contract between the Customer (as the person responsible) and us as the order data/ order processor.

d) **Use of confidential information:** Confidential information shall be used by the parties exclusively for fulfilling or asserting their mutual rights and obligations arising from the contract. The term "confidential information" in this sense, applies to the contract and all the other documents, data and information of a party, that become known to the other party in connection with the preparation, negotiation, conclusion, implementation or performance of the contract (irrespective of whether these documents, data and items of information of a party are marked as confidential), insofar as (i) they are not generally known or accessible to the public, or have become known without any involvement of the other party, (ii) they have not been released by the other party in writing as non-confidential, (iii) a party had already possessed them without the obligation of confidentiality at the time of being provided with them by the other party, or (iv) a party received them legally at a later date from a third party without the obligation of confidentiality. The recipient of confidential information shall make every endeavour to protect it against unauthorised use or publication, and in this respect shall exercise the same due care as he would for protecting his own confidential information, but at least however, the diligence of a prudent businessman.

e) Irrespective of the above-mentioned provisions, each party shall be entitled to disclose confidential information of the other party with its consent. Without the consent of the other party, disclosure shall only be permissible if this is required by a supervisory authority or other authority responsible within the scope of legal requirements, is stipulated by mandatory legal requirements, or is disclosed to employees and sub-contractors or consultants of a party who are subject to the professional obligation of confidentiality. The disclosure shall be restricted to the required extent in the specific case. In addition, the other respective party shall be informed as speedily as possible about the disclosure such that it can take relevant, additional measures for protecting its confidential information.

**f) Return and destruction:** Upon termination of the contract, each party shall hand over all the confidential information in its possession to the other party, insofar as this is in physical form. Otherwise, confidential information shall be deleted. Each party may request a written confirmation from the other party stating that all the confidential information in the possession of the other party has been handed over or deleted. The right or obligation of the parties to retain a copy of the confidential information for legally-stipulated archiving purposes, or for other purposes provided for by the contract, shall remain unaffected. Irrespective of the return or destruction of confidential information, the obligation to observe secrecy shall continue to apply after termination of the contract.

g) These obligations shall also apply after termination of the contract.

## 19 Term, termination, extraordinary termination rights

a) Long-term contracts shall be concluded for a minimum term of 12 months. The contract shall be extended automatically by one further year, if the contract has not been terminated with three months' notice to the end of the contractual term.

b) Should we send the Customer any modified contractual provisions at the latest one month before the expiry of the period of notice, or inform the Customer of any modified contractual provisions published on the Internet, the contract shall then be extended with these new provisions taken into account. Should the Customer raise an objection, the despatch of the changed contractual provisions, or reference made to the changed contractual provisions shall be deemed notice of cancellation of the contract. The objection shall require the written form.

c) Should the Customer terminate the contract in the case of work performance prior to the completion thereof, without reason, we may at our discretion (i) demand the agreed remuneration or (ii) instead, our expenses and the loss of profit, in addition to the remuneration for the services already rendered, at a standard rate of 50% of the remuneration owing for the services not yet rendered at the time of terminating the contract. The Customer shall be reserved the right to prove that the respective amount due to us is less.

d) The right of each contractual party to terminate the contractual relationship entered into for good cause in exceptional circumstances and without notice, shall remain unaffected. Important grounds are deemed to exist if facts emerge which, on taking the interests of all the circumstances of the individual case into account and considering the interests of the contracting parties, are such that the terminating party can no longer be expected to continue execution of the contract.

e) Important grounds are deemed to exist particularly in each case in which (i) the Customer is in default for two successive dates with the payment of the agreed remuneration or the Customer, in a period that stretches over more than two deadlines is in default with the payment to an amount that is equivalent to the payment for two months; (ii) the Customer is unable to pay or bankruptcy proceedings are opened with regard to his assets, or the application for the initiation of insolvency proceedings is rejected due to lack of assets; after applying for the initiation of insolvency proceedings on the assets of the Customer, we shall not, however, terminate the contract due to a default in payment of the remuneration, which occurred in the time before applying for the initiation, or due to a deterioration in the Customer's financial circumstances; (iii) the Customer violates significant contractual obligations, particularly the contractual obligation to observe the law when using our contractual services, and fails to stop this violation immediately, even after our admonishing or notifying the Customer with regard to blocking the content.

f) Any notice of termination shall require the written form.

## 20 Other (prohibition of assignment, written form, place of fulfilment, choice of law, contract language, place of jurisdiction)

a) The Customer shall be obliged to inform us in writing of any changes in the data of his company (company name, legal form, address, e-mail address for the reporting, bank connection).

b) Amendments to the contract shall be recorded by the parties in the written form. No oral subsidiary agreements shall exist that deviate from the content of the written contract, or supplement it. Amendments and supplements to the contract shall be effected by the management or persons specially authorised by the Customer. Oral agreements or declarations of other persons shall only be effective, if they have been confirmed in writing by the management of the Customer.

c) The Customer shall only assign rights arising from this contract with our written consent.

d) With regard to contracts with traders, the place of fulfilment for both parties shall be the registered office of our company.

e) These terms and conditions and the entire legal relationship subsisting between the parties shall be subject to the respectively applicable provisions of substantive law. The applicability of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

f) The contract language shall be German.

g) If the Customer is a trader, a legal person under public law, or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be the registered office of our company, whereby we shall be entitled, however, to take legal action against the Customer at any other legal place of jurisdiction.

h) The ineffectiveness of any provisions in these contractual terms or in any other agreements made between the parties, shall have no influence on the effectiveness of the remaining provisions of these General Terms and Conditions of Delivery and Service or of the other agreements. The parties shall always be obliged in each case, to replace the ineffective conditions with effective conditions that come as close as possible to the purpose of the ineffective conditions.

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