

# General Terms and Conditions

## C. SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES

### 1. General

- 1.1 These SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES shall apply for the provision of work performance services in terms of sections 631 at seqq. BGB. These terms shall apply in addition to the GENERAL TERMS AND CONDITIONS set forth in chapter A. above. For pure services in terms of sections 611 et seqq. BGB, only the GENERAL TERMS AND CONDITIONS set out in section A. above shall apply.
- 1.2 In case of any conflict between these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES and any other document being part of this SERVICES AGREEMENT, section A. 1.2 shall apply mutatis mutandis.
- 1.3 If not defined otherwise in these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES, the definitions set forth in the GENERAL TERMS AND CONDITIONS (section A.) shall apply also for these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES.

### 2. Definitions

Capitalized terms used in these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES shall have the meaning set out either in the GENERAL TERMS AND CONDITIONS, in this section 2, elsewhere in these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES or in the ORDER SHEET:

ADDITIONAL CLIENT RESPONSIBILITIES	means the obligations and responsibilities of the CLIENT set forth in these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES in addition to those CLIENT responsibilities and contributions stated in the GENERAL TERMS AND CONDITIONS or elsewhere in the AGREEMENT.
CHANGE REQUEST	means a written request of a PARTY to the other PARTY's PROJECT MANAGER specifying in reasonable detail to the extent known: (i) the proposed CONTRACT CHANGE; (ii) the objective or purpose of such CONTRACT CHANGE; (iii) the particular provisions in this AGREEMENT being affected by the CONTRACT CHANGE; and (iv) the requested prioritisation and schedule for such CONTRACT CHANGE.
CHANGE RESPONSE	means a written statement of a PARTY to a CHANGE REQUEST of the other PARTY describing any changes in the SERVICES or DELIVERABLES in terms of section 7.1 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES and due dates.

CHANGE PROCEDURE	means the procedure described in section 5.3 of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES to revise, amend, alter or otherwise change the SERVICES being provided under the AGREEMENT
CLEARANCE	means objective sign-off criteria and procedures for INTERIM DELIVERABLE(S).
CLIENT AFFILIATE(S)	means company/companies affiliated with CLIENT in terms of sections 15 et seqq. AktG.
CLIENT-OWNED INTELLECTUAL PROPERTY	means the INTELLECTUAL PROPERTY owned by CLIENT or CLIENT AFFILIATES before the COMMENCEMENT DATE OF SERVICE or acquired by CLIENT after the COMMENCEMENT DATE OF SERVICE.
CLIENT POLICIES	means any law pertaining to CLIENT's operation of its business.
CLIENT PROVIDED MATERIAL	means certain hardware, software, tools, data, databases including related documentation, owned or licensed by CLIENT (i) with respect to which CLIENT will retain responsibility and (ii) use or access which will be required for VWD for purposes of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES.
CONTRACT CHANGE	means the written documentation of the agreed changes to the SERVICES agreed with the AGREEMENT within the scope of a Change Procedure described in section 5.3 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES
DEFECT	means that the DELIVERABLE does not materially conform with the specifications set out for the respective DELIVERABLE in the SERVICE DESCRIPTION and is free of third party rights restricting use of the DELIVERABLE by the CLIENT for its own business purposes specified in the SERVICE DESCRIPTION.
DELIVERABLE(S)	mean(s) work result(s) („Werk“) in terms of section 631 BGB VWD specifically develops for CLIENT pursuant to the SERVICES AGREEMENT („DELIVERABLES“; each a „DELIVERABLE“)

EMBEDDED VWD-OWNED INTELLECTUAL PROPERTY	means any VWD-OWNED INTELLECTUAL PROPERTY that is necessary for CLIENT to use or maintain the DELIVERABLE for CLIENT's normal business purposes.
GENERAL TERMS AND CONDITIONS	means the terms and conditions set out in lit. A. of the AGREEMENT.
INTERIM DELIVERABLE	means certain parts or components forming an integral part of a DELIVERABLE.
PROJECT MANAGER	means individuals who will be primarily dedicated to the project SERVICES who (i) act as the primary contact for each PARTY in dealing with the other PARTY under this AGREEMENT; (ii) will have overall responsibility for managing and coordinating the delivery and the receipt of the project SERVICES; (iii) will communicate regularly with each other; and (iv) will otherwise have the authority and responsibilities described in the ORDER SHEET.
AGREEMENT TERM	means the period during which VWD provides the SERVICES in accordance with the AGREEMENT.
VWD AFFILIATE(S)	means company/companies affiliated with VWD in terms of sections 15 et seqq. AktG.
VWD-OWNED INTELLECTUAL PROPERTY	means the INTELLECTUAL PROPERTY (i) owned by VWD or VWD AFFILIATES before the COMMENCEMENT DATE OF THE SERVICE or acquired by VWD after the COMMENCEMENT DATE OF THE SERVICE or (ii) developed by VWD or VWD AFFILIATES other than pursuant to this AGREEMENT or any other agreement with CLIENT.
VWD-OWNED INTELLECTUAL PROPERTY ENHANCEMENTS	means any modifications, enhancements and improvements to, or derivative works of, any EMBEDDED VWD-OWNED INTELLECTUAL PROPERTY made by CLIENT or its contractors pursuant to the licence granted to CLIENT in accordance with section 11.4.1 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES.
WARRANTY PERIOD	means a period of 12 months following acceptance in accordance with section 8 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES.
WORKING DAY	means any calendar day from Monday to Friday excluding national public holidays in Germany („bundeseinheitliche Feiertage“).
PROPRIETARY MATERIAL	means products, materials, tools and methodologies that are proprietary to vwd or to a third party.

### 3. Provision of work performance SERVICES

VWD shall provide work performance SERVICES to CLIENT in accordance with the specifications and timeline set forth in the SERVICE DESCRIPTIONS.

### 4. Additional CLIENT responsibilities and contributions

- 4.1 In connection with VWD's performance of its obligations under these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES, CLIENT will, at its own cost and expense, perform ADDITIONAL CLIENT RESPONSIBILITIES. CLIENT will perform such ADDITIONAL CLIENT RESPONSIBILITIES and acknowledges that VWD's performance is dependent on CLIENT's timely and effective performance of the ADDITIONAL CLIENT RESPONSIBILITIES and other timely decisions and approvals.
- 4.2 In recognition of the aforementioned, CLIENT shall, in addition to CLIENT contributions or responsibilities set forth elsewhere in this AGREEMENT, perform to the following ADDITIONAL CLIENT RESPONSIBILITIES:
- CLIENT is responsible for (i) determining in writing industry- and company-specific requirements and practices, other standards for the SERVICES with which VWD - upon its agreement therewith - will be required to comply; (ii) clarify and stipulating the CLIENT legal and regulatory requirements applicable to the SERVICES or DELIVERABLES in terms of section 8.1 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES below and any use by CLIENT thereof; (iii) instructing VWD in writing as to the manner in which VWD shall perform the SERVICES or implement changes to the SERVICES so as to comply with CLIENT POLICIES and specifying and improving any CLIENT requirements; and
  - CLIENT shall make available to VWD, in a reasonable format and in a timely manner, a complete and accurate set of all data and information as well as project infrastructure such as hardware, software, tools and workspace necessary for rendering the SERVICES; and
  - CLIENT will be financially and administratively obtaining any consents and licenses for CLIENT PROVIDED MATERIAL required for VWD (and applicable subcontractors) to access and/or use such CLIENT PROVIDED MATERIAL to render the SERVICES; and
  - CLIENT shall promptly make, and notify VWD of all decisions required to make for the project SERVICES by CLIENT; and
  - CLIENT shall install without undue delay bug fixes in any software components made available to CLIENT, if so requested by VWD in accordance with section 9.3 of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES.
  - In addition, CLIENT shall provide contributions specified in the ORDER SHEET „PROJECT SERVICES“.

### 5. Relationship Governance

- 5.1 During the TERM of this AGREEMENT, each PARTY will designate a PROJECT MANAGER.
- 5.2 Further details on governance may be set out in an ANNEX.
- 5.3 Change Procedure.  
The PARTIES will comply with the following CONTRACT CHANGE procedure to revise, amend, alter or otherwise change the project SERVICES being provided under the AGREEMENT:
- 5.3.1 CHANGE REQUEST  
To request a CONTRACT CHANGE, VWD or CLIENT, as applicable, will deliver a CHANGE REQUEST to the other PARTY's PROJECT MANAGER specifying in reasonable detail to the extent known: (i) the proposed CONTRACT CHANGE; (ii) the objective or purpose of such CONTRACT CHANGE; (iii) the particular provisions in this AGREEMENT being affected by the CONTRACT CHANGE; and (iv) the requested prioritisation and schedule for such CONTRACT CHANGE.
- 5.3.2 CHANGE REQUEST process  
Upon submission of any CHANGE REQUEST by CLIENT, VWD shall notify CLIENT of the anticipated costs and time for reviewing the CHANGE REQUEST. CLIENT shall compensate VWD for review of any CHANGE REQUESTS on a time and material basis based on the agreed rates, whether or not CLIENT ultimately contracts with VWD for implementation

of the CHANGE REQUEST. Otherwise VWD shall have no obligation to review the CHANGE REQUEST.

If the CLIENT agrees to pursue the CHANGE REQUEST, as soon as practicable and to the extent applicable, VWD will prepare and deliver to the CLIENT PROJECT MANAGER a CHANGE RESPONSE describing any changes in the SERVICES or DELIVERABLES in terms of section 8.1 of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES and due dates.

In addition, such CHANGE RESPONSE will include, as appropriate or applicable: (i) an estimation of the net increase or decrease in the pricing that would be required; (ii) a description of how the proposed CONTRACT CHANGE would be implemented; (iii) a description of the effect, if any, such CONTRACT CHANGE would have on this AGREEMENT and (iv) an estimation or resources required to implement such CONTRACT CHANGE, including a description delivery risks and associated risk mitigation plans. by the CONTRACT CHANGE; and (iv) the requested prioritisation and schedule for such CONTRACT CHANGE.

#### 5.3.3 Documentation

Any CONTRACT CHANGE shall not be valid and shall not be implemented unless and until an agreement in text form defining the terms and conditions for implementation of the CHANGE REQUEST has been agreed. VWD shall continue to deliver SERVICES on the basis of the existing agreements until the PARTIES have agreed a valid CONTRACT CHANGE.

### 6. Human Resource Matters

Except as otherwise provided in this AGREEMENT, VWD reserves the right to determine which personnel assigned to perform the SERVICES, and to replace or reassign such personal during the TERM. The personal engaged by VWD shall solely be under VWD's right to issue instructions. The PARTIES shall ensure that the right to issue the instructions with respect to the work shall be solely exercised by VWD and shall ensure that the VWD personal shall not be integrated into the CLIENT organisation.

### 7. Pricing and payment

- 7.1 CLIENT shall pay the FEES agreed in the ORDER SHEET „PROJECT SERVICES“ and in accordance with the terms set forth in this section.
- 7.2 VWD will invoice CLIENT as specified in the ORDER SHEET „PROJECT SERVICES“.
- 7.3 Sections 7.2-7.4 of the GENERAL TERMS AND CONDITIONS shall apply mutatis mutandis.

### 8. Acceptance Procedure

- 8.1 For the avoidance of doubt, the provisions of this section 8 (Acceptance Procedure) and section 9 (Defects) of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES shall only apply to DELIVERABLE(S).
- 8.2 DELIVERABLES shall be delivered by VWD to CLIENT after their completion. Unless otherwise agreed, CLIENT shall accept all DELIVERABLES within twenty WORKING DAYS from delivery, provided that the DELIVERABLE does not show a DEFECT as defined in section 9.1 of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES. In the event of any DEFECT preventing acceptance, CLIENT shall provide VWD with a detailed list of DEFECTS within the aforementioned time period. Acceptance may not be refused on the basis of immaterial defect. A DELIVERABLE shall be deemed to have been accepted if CLIENT fails to provide VWD with a list of DEFECTS within the timeframe set forth in this section.
- 8.3 The PARTIES may mutually develop CLEARANCE criteria and procedures for INTERIM DELIVERABLES such CLEARANCE to be set-out in detail and referred to in the SERVICE DESCRIPTION. The purpose of CLEARANCE is to identify and address issues relating to the DELIVERABLES only and

to assist in the timely completion of each DELIVERABLE. If CLIENT expresses concerns regarding the quality and level of completion of the DELIVERABLES, the PARTIES will cooperate to establish a mutually accepted resolution of these issues as soon as practicable. Compliance with such procedures with respect to any INTERIM DELIVERABLE will not constitute acceptance of the DELIVERABLE but will constitute acceptance of the INTERIM DELIVERABLE which the CLEARANCE relates to („Teilabnahme“).

- 8.4 In the event that CLIENT determines that a DELIVERABLE should be placed into a production or life running environment prior to completion of acceptance, the DELIVERABLE will be deemed to have been accepted by CLIENT and CLIENT will bear all related risks which may include business disruption, degraded performance and additional fees. In such case the warranty and liability of VWD for such DELIVERABLE is excluded except for wilful misconduct and gross negligence. VWD reserves the right, but is not obligated, to refuse to implement DELIVERABLES their acceptance has not been subject to completion were in VWD's professional judgement, implementing the DELIVERABLE at that time would be injurious to CLIENT's or VWD's business reputation.

### 9. Defects

- 9.1 VWD warrants („gewährleistet“) that, during the WARRANTY PERIOD, DELIVERABLES are free of DEFECT.
- 9.2 CLIENT will notify VWD in writing of any DEFECT during the WARRANTY PERIOD and provide VWD with adequate information to identify the circumstances in which such DEFECT has been discovered.
- 9.3 VWD may remedy any DEFECT by methods and means of its own choice. Remedies also include any work arounds made by VWD to CLIENT. VWD may also request CLIENT to install without undue delay bug fixes in any software components made available to CLIENT. CLIENT will provide to VWD access, in a timely manner, to any technical support, facilities, hardware, software or information in CLIENT's possession necessary for VWD to analyse and remedy the DEFECT. VWD will correct such DEFECTS as soon as reasonably practicable and furnish CLIENT with a revised or updated DELIVERABLE reflecting any corrections made pursuant to this section.
- 9.4 If VWD's final attempt to remedy a DEFECT has failed, CLIENT may demand a reduction in the price („Minderung“) of the defective DELIVERABLE or, if the DEFECT qualifies as a serious defect, claim damages in accordance with section 10 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES. Any recession right („Rücktrittsrecht“) or any right of CLIENT to remedy defects independently or with the assistance of third parties („Recht der Selbstvornahme“) is hereby excluded. Whether the final attempt to remedy a DEFECT has failed shall be determined in consideration of the complexity of the problem and surrounding circumstances.
- 9.5 Notwithstanding the foregoing, VWD shall not be held liable for DEFECTS arising (i) from any DEFECT or gap any design or performance specification of concept approved by CLIENT, (ii) any defective work product delivered by CLIENT or any other contractors of CLIENT, (iii) any act or omission of CLIENT, (iv) any person (other than VWD or any person on the express direction of VWD) making any revisions modifications to DELIVERABLE after its provision to CLIENT, (v) the malfunction of any CLIENT-supplied software or equipment or (vi) CLIENT operation of the DELIVERABLE other than in accordance with applicable documentation or design, or on hardware not recommended, supplied or approved by VWD, unless CLIENT can demonstrate that the DEFECT was not caused by such occasion.
- 9.6 CLIENT shall compensate VWD for any additional work performed by VWD in connection with any alleged DEFECTS that are not covered according to this section 9 based on time and material rates specified in the ORDER SHEET „PROJECT SERVICES“. This shall particularly apply in case VWD remedies a DEFECT of a DELIVERABLE that has been modified by CLIENT or any other contractors of CLIENT without VWD's prior written consent.

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9.7 Limitations of liability as set out in this section 9 shall not apply in the event VWD has fraudulently concealed a DEFECT or the DEFECT is covered by a guarantee granted by VWD in terms of section 639 BGB. The same applies in the event of VWD's wilful misconduct or gross negligence or in case, limitation of liability is not permitted because higher liability standards are mandatory by statutory law.

9.8 This section 9 exclusively constitutes any and all rights and remedies of the CLIENT deriving from or in connection of a DEFECT. Any further rights and remedies granted under applicable statutory law shall be expressly excluded except in case of wilful misconduct or gross negligence of VWD.

## 10. Limitation of Liability

10.1 For limitations of liability for PROJECT SERVICES, sections 16.1 and 16.2 of the GENERAL TERMS AND CONDITIONS shall apply.

10.2 In any other case, the total aggregate liability of VWD, irrespective of its cause, in particular contract, tort or pre-contractual breach of obligations, shall be limited to an amount of EUR 200.000,00.

10.3 Sections 10.1 and 10.2 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES shall also apply to VWD's vicarious agents.

## 11. Proprietary Rights

11.1 CLIENT will be the sole and exclusive owner of CLIENT-OWNED INTELLECTUAL PROPERTY. Any derivative works, modifications, enhancements or improvements to the CLIENT-OWNED INTELLECTUAL PROPERTY developed by VWD in connection with this AGREEMENT as DELIVERABLE will be owned exclusively by CLIENT and be CLIENT-OWNED INTELLECTUAL PROPERTY.

11.2 VWD will be the sole and exclusive owner of VWD-OWNED INTELLECTUAL PROPERTY. Any derivative works, modifications, enhancements or improvements of the VWD-OWNED INTELLECTUAL PROPERTY or its related documentation being an integral part of a DELIVERABLE will be owned exclusively by VWD except as otherwise agreed according to section 11.4 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES.

11.3 Upon final and unconditional payment, VWD grants to CLIENT a perpetual, non-transferable, non-exclusive paid-up right and license to use, maintain, copy, modify, enhance and prepare derivative works of the DELIVERABLE, subject to any restrictions of any third-party materials and VWD-OWNED INTELLECTUAL PROPERTY identified by VWD as being embodied in the DELIVERABLE. CLIENT's rights in the DELIVERABLE will be for purposes of CLIENT's internal business only. All other rights including all other intellectual and industrial property rights in the DELIVERABLE will remain with or are hereby assigned to VWD.

11.4 To the extent that VWD incorporates or embeds any VWD-OWNED INTELLECTUAL PROPERTY or derivative works, modifications, enhancements or improvements thereof or thereto into any DELIVERABLE the following provisions shall apply:

11.4.1 If VWD incorporates or embeds EMBEDDED VWD-OWNED INTELLECTUAL PROPERTY into any DELIVERABLE, VWD will grant to CLIENT an non-exclusive, non-transferable, perpetual license to use, maintain, modify, enhance and create derivative works of such EMBEDDED VWD-OWNED INTELLECTUAL PROPERTY (i) to the extent necessary to use or maintain such DELIVERABLE for CLIENT's internal business purposes and (ii) solely as used in such DELIVERABLE and not as stand-alone product or separately from such DELIVERABLE in which it is embedded. VWD will not be deemed to have transferred or assigned any other rights to CLIENT with respect to any EMBEDDED VWD-OWNED INTELLECTUAL PROPERTY.

11.4.2 Notwithstanding such licence, VWD will be the sole and exclusive owner of VWD-OWNED INTELLECTUAL PROPERTY ENHANCEMENTS. All such VWD-OWNED INTELLECTUAL PROPERTY ENHANCEMENTS will be owned by VWD subject to the above licence to CLIENT. CLIENT hereby assigns to VWD without further consideration CLIENT's copyright, ownership

rights and rights to use by whatever means and tools, whether known or unknown or modify in and to such VWD-OWNED INTELLECTUAL PROPERTY ENHANCEMENTS. All such VWD-OWNED INTELLECTUAL PROPERTY ENHANCEMENTS will be deemed part of the licence granted to CLIENT pursuant to this section.

11.5 In the course of performing its obligations under this AGREEMENT, VWD may use PROPRIETARY ITEMS which do not qualify as VWD-OWNED INTELLECTUAL PROPERTY at the same time. PROPRIETARY ITEMS will be deemed CONFIDENTIAL INFORMATION of VWD. CLIENT will neither have nor obtain any rights in such PROPRIETARY ITEMS or in any modifications or enhancements thereto other than (i) to use them as authorised by VWD in writing from time to time solely for purposes of performing its responsibilities under this AGREEMENT or receiving the SERVICES; (ii) to the extent the PROPRIETARY ITEMS constitute EMBEDDED VWD-OWNED INTELLECTUAL PROPERTY under section 11.4 of these SUPPLEMENTARY TERMS AND CONDITIONS PROJECT SERVICES; or (iii) pursuant to VWD's standard license for such PROPRIETARY ITEMS or, in the case of PROPRIETARY ITEMS owned by third parties, pursuant to terms acceptable to the applicable third party. If PROPRIETARY ITEMS are made available to CLIENT under (i) or (ii) of this subsection 11.5, they will be made available on and „as is“ basis and, to the extent permitted by applicable law, without express or implied warranties of any kind. PROPRIETARY ITEMS made available under (iii) above will be subject to the terms of the applicable license.

## 12. Termination

12.1 Unless terminated earlier in accordance with these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES, the AGREEMENT will continue for the duration of provision of SERVICES.

12.2 The AGREEMENT may be terminated for good cause („aus wichtigem Grund“) upon written notice by either PARTY. If grounds for termination involve a breach of this AGREEMENT, the terminating PARTY shall, prior to giving notice of termination, notify the other PARTY in writing about its intention to terminate this AGREEMENT for cause identifying specifically the basis for termination provide the other PARTY a reasonable grace period for curing the breach. A PARTY shall have good cause for termination if there are any circumstances that would make a continued cooperation of the PARTIES unduly burdensome for the terminating PARTY, including, without limitation, any failure of the other PARTY to pay substantial amounts when due or any repeated or persistent failure in cooperation.

12.3 For VWD, a good cause for termination in terms of section 12.2 of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES particularly exists if CLIENT is in breach with section 4.2 of these SUPPLEMENTARY TERMS AND CONDITIONS FOR PROJECT SERVICES.

12.4 Any further right to terminate this AGREEMENT provided under applicable statutory law shall be expressly excluded; this especially applies to the right for termination granted according to section 649 BGB. Any further right for termination granted according to sections 314 and/or 648a BGB, as applicable, shall remain unaffected by this subsection 12.4.

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