

## General Terms and Conditions of Purchase

### d.velop AG

#### 1 Applicability and legal status of the parties

- 1.1 These General Terms and Conditions of Purchase (the "GTCP") apply to agreements between d.velop AG, Schildarpstraße 6-8, 48712 Gescher, AG Coesfeld HRB 4903 ("d.velop") and its suppliers. They will only apply if the relevant supplier is a trader (*Unternehmer*, s. 14 German Civil Code, *Bürgerliches Gesetzbuch - BGB*).
- 1.2 Unless otherwise agreed, the GTCP will also apply to similar future agreements. A renewed reference to their validity is not required.
- 1.3 These GTCP apply exclusively. Any general terms and conditions of the supplier which deviate from or supplement the GTCP will only become part of the agreement if d.velop expressly agrees to their application. They will not become part of the agreement even if d.velop performs the agreement without expressly objecting to them.
- 1.4 Individual agreements always take precedence over the GTCP.
- 1.5 References to the applicability of statutory provisions are only for clarificatory purposes. The relevant statutory provisions will therefore apply even absent any such clarification, unless the GTCP directly amend or expressly exclude them.
- 1.6 All companies in the d.velop group may conclude individual agreements with the supplier under the terms of this agreement. These are companies in which d.velop holds at least 25% of the shares at the time of contracting, or which are affiliates of d.velop within the meaning of s. 15 et seq. German Stock Corporation Act, *Aktiengesetz - AktG* (the "d.velop Group"). If an individual agreement is concluded between a company in the d.velop Group and a supplier, such commissioning company will be an independent party to the individual agreement. d.velop will not be party to such individual agreement. If the commissioning company has its registered office outside Germany, the parties shall, in the individual agreement and as required, provide for the legal requirements which apply in the relevant jurisdiction.
- 1.7 The parties are independent as well as legally and commercially autonomous traders. They are free in their operational organisation and are not subject to any directions regarding the provision of their deliverables. The parties are responsible for procuring the necessary operating resources themselves. The supplier will not be subject to any directions from d.velop in the performance of the tasks for which it has been contracted. The supplier will be independent in arranging its activities and – with the exception of technical specifications – be completely unrestricted.

#### 2 Subject-matter of the contract

- 2.1 The supplier's specific deliverables are set out in the relevant individual agreement.

##### 2.2 Delivery of software

- 2.2.1 If the supplier provides software to d.velop, the use of the software will, depending on what is agreed, be for:
- an unlimited period on the end-customer's IT infrastructure or that of a third party appointed by the end-customer (Software Purchase on Premises);
  - a limited period on the end-customer's IT infrastructure or that of a third party appointed by the end-customer (Software Lease on Premises); or
  - a limited period on the supplier's IT infrastructure or that of a third party appointed by the supplier (Software-as-a-Service - "SaaS").
- 2.2.2 The agreed quality of the software to be delivered (*geschuldete Beschaffenheit*) will principally be determined by the relevant product descriptions, which shall be made the subject-matter of the contract and which the supplier shall provide at least in German and English. Such descriptions shall contain specific and detailed information on the functionality and system requirements of the products. In addition, the statutory definition of defects (*Mängelbegriff*) will apply.
- 2.2.3 The supplier shall ensure that its software is fully compatible and interoperable with d.velop's software still under maintenance as well as its interfaces. This includes compatibility of the supplier's software with previous and later versions of d.velop's software. A list of d.velop's software still under maintenance shall be made available to the supplier at any time upon request. Such a list can also be found in d.velop's service portal.
- 2.2.4 In the case of clause 2.2.1 c), the supplier shall also comply with the requirements arising out of the "Performance Description for the d.velop Cloud Platform".
- 2.2.5 Unless otherwise agreed, any software to be delivered by the supplier in accordance with clause 2.2 shall be accessible. For this purpose, it shall at least comply with the WCAG 2.1, Level AA Standard.
- 2.2.6 The supplier shall provide a documentation in German and English for any software which it supplies. The documentation shall be such that d.velop can make it fully understood to qualified employees within a reasonable time and without involving third parties.

##### 2.3 Maintenance and support

In the case of the delivery of software, the supplier shall also provide maintenance and 2nd and 3rd level support. In the case of clause 2.2.1 a), this requires a separate agreement. Details can be found in a separate annex to the contract. d.velop shall provide 1st level support.

## 2.4 Services and work

If the supplier provides consultancy, services or work (*Beratungs-, Dienst- oder Werkleistungen*), the details shall be agreed separately.

## 2.5 Further performance

Depending on the individual agreement, the supplier shall provide further services, including customising and developing the software which d.velop has purchased or leased in accordance with clause 2.2 as well as installation and training services.

2.6 d.velop shall procure the supplier's deliverables set out in this clause 2 in its own name and for its own account and shall conclude agreements with its end-customers and partners in its own name and for its own account.

## 3 Delivery

3.1 In the case of clauses 2.2.1 a) and 2.2.1 b), and unless otherwise agreed, the supplier shall provide d.velop with a download link and send it the necessary access data and a licence key.

3.2 In the case of clause 2.2.1 c), the supplier shall provide d.velop with the necessary access data.

3.3 d.velop may also pass on the download link, licence key and/or access data referred to in clauses 3.1 and 3.2 directly to its partner or end-customer. Alternatively, d.velop may require the supplier to deliver the software directly to d.velop's partner or end-customer.

## 4 Supplier's further obligations

### 4.1 Delivery of software

4.1.1 The supplier shall update and further develop the software in accordance with the current state of the art (*Stand der Technik*), particularly due to the legal position changing, technical developments or to improve IT security. The supplier shall duly consider d.velop's legitimate interests and inform d.velop in good time of any necessary updates. If d.velop's legitimate interests are significantly impaired, d.velop will have an exceptional right of termination. A significant impairment will be deemed to exist if central functionalities of the software become unavailable and this requires d.velop to make significant organisational, functional or technical changes as a result.

4.1.2 In the case of section 2.2.1 c), the supplier shall carry out regular backups of the data processed with the software.

### 4.2 Maintenance and support

At d.velop's request, the supplier shall, by means of expert training, enable d.velop and/or its partners to provide 1st level support, training and other services in relation to the software it supplies.

### 4.3 General obligations

4.3.1 The supplier shall, at its own expense, obtain the necessary authorisations and approvals required to provide the products and services in compliance with the relevant agreement, maintain them for the duration of the contract, and evidence this to d.velop at any time upon request.

4.3.2 The supplier shall ensure that the deliverables to be provided by it comply with any legal and regulatory requirements applicable under this agreement and at the agreed destination of the relevant products and services.

4.3.3 The supplier shall maintain an effective quality management system that complies with the essential requirements of DIN EN ISO 9001.

4.3.4 If it becomes apparent to the supplier that it may be prevented from providing its goods or services in compliance with the relevant agreement due to d.velop's breach of an obligation to cooperate (*Mitwirkungspflicht*), non-performance, defective performance or late performance by a third party working for d.velop, or force majeure, it shall immediately inform d.velop in text form in accordance with s. 126b BGB ("Text Form"). In particular, the supplier shall indicate the beginning and the foreseeable end of the relevant event. The supplier shall do everything necessary and reasonable to mitigate the consequences of such an event.

4.3.5 If, after the relevant agreement has been concluded, an end-customer of d.velop makes specifications for the provision of the deliverables purchased from the supplier that go beyond what has been contractually agreed between the parties, the parties shall mutually agree on the manner in which the supplier can implement the end-customer's specifications. To the extent necessary, the supplier shall initiate a change request in accordance with clause 19 for the end-customer's specifications which have been communicated to it.

4.3.6 In the event of serious or repeated breaches of duty by an employee of the supplier, the supplier shall replace the employee concerned at d.velop's request. This will not give rise to any claim for payment or compensation on the supplier's part.

## 5 Deadlines and dates

Agreed delivery or performance deadlines or dates, particularly milestones ("Deadlines"), shall be binding on the supplier unless they are expressly designated as non-binding. If a Deadline has passed, the supplier will be deemed to be in default without the need for a reminder or any other request for performance on d.velop's part, unless the supplier is not responsible for the delay. If it becomes apparent to the supplier that it will not be in a position to meet a Deadline, it shall immediately inform d.velop in Text Form.

## 6 Intellectual property and rights of use

6.1 The supplier grants d.velop a non-exclusive, geographically unrestricted right to use the delivered software and related documentation, which can be shared with d.velop's affiliates (s. 15 et seq. German Stock Corporation Act), to the extent that this is necessary for d.velop to make use of the deliverables in accordance with the relevant agreement and their intended use. Such right of use is unlimited in time in the case of a software purchase and, in the case of a software lease, limited to the term of the individual agreement.

6.2 The contractual and intended use within the meaning of clause 6.1 includes the resale of the software to d.velop's end-customers and partners. For this purpose, the supplier grants d.velop the right to copy, distribute and make the materials publicly accessible, to

to the extent that this is necessary for resale. Partners under this agreement are d.velop's affiliates within the meaning of s. 15 et seq. German Stock Corporation Act as well as companies independent of d.velop with which d.velop has contractually agreed to cooperate in the area of sales. Partners may sell the software and services in their own name and for their own account ("Reselling Partners") and/or broker contracts between d.velop and customers or partners ("Referral Partners").

- 6.3 The supplier also grants d.velop the right to, in turn, grant its direct customers a non-exclusive, geographically unrestricted right to use the materials in accordance with the relevant agreement. Such right of use is unlimited in time in the case of a software purchase and, in the case of a software lease, limited to the term of the contract. Contractual use by the end-customer includes downloading, installing, loading into working memory, displaying and running the software. The end-customer's group companies within the meaning of s. 18 German Stock Corporation act, in which the end-customer holds a majority interest of at least 51%, are equally authorised to use the software. This does not constitute an independent authorisation for the end-customer to sublicense or otherwise transfer the rights of use. The end-customer may only make copies to the extent that these are necessary for use in accordance with the relevant agreement. This includes loading the software into working memory and making a back-up copy. The end-customer may also copy and decompile the software under the conditions set out in s. 69e German Act on Copyright and Related Rights, *Urheberrechtsgesetz – UrhG*. The end-customer is only permitted to modify or alter the software if this constitutes a necessary rectification of defects for use in accordance with the relevant agreement. The end-customer shall not be granted the right to sell the software to third parties or to make it available to third parties in any other way (for example, by leasing it, sub-leasing it, lending it, making it publicly accessible or publicly exhibiting it). An exception to this is the end-customer's right, in the case of a software purchase, to permanently transfer to a third party the acquired copy of the software, including the rights of use provided for here as well as the relevant documentation. In this case, d.velop shall oblige the end-customer to give up the use of the software completely and to delete all copies of the software, unless it is legally obliged to retain them.
- 6.4 d.velop may grant its partners the right to resell the software in their own name and, in this context, also grant their end-customers the rights of use set out in clause 6.3.
- 6.5 d.velop may modify or alter the software if such modification or editing is necessary to remedy a defect for use in accordance with the relevant agreement, and the supplier is in default in relation to remedying the defect.
- 6.6 Notwithstanding clauses 6.1 to 6.5, the supplier grants d.velop exclusive rights of use for all known and unknown types of utilisation, unlimited in terms of territory, time and content, to work results (*Arbeitsergebnisse*) that only arise directly or indirectly from the supplier providing the deliverables to d.velop (including, but not limited to, individual software including the source code). Such rights include the right to copy, distribute, make available to the public and edit, including translating. In any event, d.velop obtains from the supplier all rights necessary to operate, maintain, care for and further develop the work results itself, and to share these rights with third parties or have these rights executed by third parties. To the extent that the ownership of work results can be established and transferred, the supplier shall transfer ownership to d.velop upon their creation and in their respective current state of processing. This in no way affects the supplier's right to use and apply general know-how, experience, methods and procedures acquired in connection with the work results for other purposes, subject to complying with any agreements on data protection and confidentiality.

## 7 White-labelling

In individual cases, it may make sense for d.velop to resell the supplier's products as white-label products. This shall require a separate agreement between the parties. In this case, d.velop may remove any trademarks or other labels (in particular, product names) on the supplier's products and label these with d.velop's own trademarks and other labels (in particular, product names). This also applies if the supplier's products are combined with d.velop's own products and other services, which shall also require a separate agreement. In such a case, d.velop may also alter the software for the purposes of this combination.

## 8 Test licences

At d.velop's request, the supplier shall provide it with test licences in respect of its software for sales purposes. d.velop may pass these test licences on to its customers for testing purposes. d.velop may also pass such test licences on to its partners for sales purposes, who in turn may pass them on to their end-customers for testing purposes. Such test licences shall be limited as to time, functional scope and number so that the potential end-customer is able to test the software sufficiently. Unless otherwise agreed, test licences shall be provided free of charge.

## 9 Open-source software

If the supplier's software contains a third party's software or open-source software, the supplier shall ensure that the agreement can be fulfilled in compliance with the licence/user conditions of the third party or the open-source software, and that it is legally authorised to grant d.velop or the relevant customers and partners all rights of use necessary to fulfil the agreement. The supplier guarantees (*garantiert*) that it does not use any open-source-software components which impair the use of the software provided for in this agreement, and/or the licences for which contain a strict copyleft effect. The supplier shall provide d.velop an up-to-date list of the third-party software or open-source software components contained in its products in the form of a "Software Bill of Material" (SBOM) and guarantees that it does not use any components other than those listed.

## 10 Access to premises and resources

- 10.1 If d.velop makes available to the supplier materials, premises, objects, etc. ("Facilities and Resources") to support the fulfilment of the agreement, the supplier shall use these exclusively to provide its deliverables. The supplier shall treat the Facilities and Resources with due care. The supplier shall be liable in accordance with this agreement for its loss, damage or misuse of the Facilities and Resources. If the use of the Facilities and Resources is no longer required, the supplier shall return them to d.velop in the condition in which they were provided. Wear and tear arising out of normal use is not detrimental and will not give rise to compensation for damage or expenses.
- 10.2 When accessing buildings and premises, the supplier shall inform itself of the guidelines applicable at d.velop. The supplier shall observe the guidelines at all times and inform its employees and sub-contractors of these accordingly. d.velop may exercise its

domiciliary rights (*Hausrecht*) in the event of non-compliance with such guidelines. The supplier may not assert any claims against d.velop on these grounds. Unless otherwise specified in the individual agreement, the supplier shall be granted access to buildings and premises during ordinary business hours between 8am and 5pm on working days. "Working days" are Monday to Friday, except for public holidays in North Rhine-Westphalia.

- 10.3 The supplier may only access the IT systems of d.velop or its end-customers remotely after entering into a separate agreement on data-processing and in compliance with the guidelines applicable to this at d.velop, about which the supplier shall inform itself in advance. The supplier shall inform its employees and sub-contractors of this. d.velop may terminate or refuse remote access in the event of non-compliance with the provisions of the data-processing agreement or the guidelines. The supplier may not assert any claims against d.velop on these grounds.

## **11 Payment and terms**

- 11.1 Unless otherwise agreed, details of payment and its terms are set out in the "Price List" annex.
- 11.2 The agreed payment is subject to additional statutory value-added tax (VAT).
- 11.3 Unless otherwise agreed, the supplier's requests for payment shall be settled without deduction, to an account which the supplier specifies, within 30 days of the date of the relevant credit note or invoice.
- 11.4 If the parties have agreed a lump-sum payment for the provision of the deliverables, all the supplier's claims for payment against d.velop will be settled when the agreed payment is made.

## **12 Warranty, maintenance and support**

- 12.1 The supplier warrants (*gewährleistet*) that the software and the user documentation are of the agreed quality (*Beschaffenheit*) and that their use by d.velop and/or its partners and end-customers does not conflict with any third-party rights to the contractually agreed extent.
- 12.2 After two unsuccessful attempts at subsequent rectification or replacement delivery (*Nacherfüllung*), d.velop may withdraw from the contract or demand a reduction in payment as well as compensation in accordance with clause 13.
- 12.3 If the supplier is responsible for an infringement of third-party proprietary rights through its performance under this agreement, the supplier may, at its own expense and at its discretion, either acquire the rights of use required for d.velop, or modify or re-perform the relevant deliverables in such a way that no third-party proprietary rights are infringed, but that nevertheless complies with the relevant contractual arrangements. If the supplier cannot grant the necessary rights of use or modify the deliverables accordingly, d.velop may immediately terminate the agreement. Any further claims for compensation on d.velop's part will remain unaffected and their enforcement will be governed by clause 13.

## **13 Liability**

- 13.1 The parties shall only bear unlimited liability (a) for intent or gross negligence, (b) for fraudulent concealment of a defect, (c) for injury to life, limb or health, (d) to the extent of a guarantee assumed by them, or (e) under the Product Liability Act (*Produkthaftungsgesetz – ProdHaftG*).
- 13.2 In the event of an ordinarily negligent breach of a material contractual obligation, the fulfilment of which is a prerequisite for the proper performance of the contract and on the observance of which the other party regularly relies and may rely (*Kardinalpflicht*), liability will be limited to the damage that could reasonably have been expected at the time the agreement was concluded.
- 13.3 Any further liability of the parties is excluded.
- 13.4 These limitations on liability also apply to the actions of the parties' legal representatives and agents.
- 13.5 If a customer or partner asserts any claims against d.velop based on the breach of contractual obligations by the supplier or third parties which it has commissioned, the supplier shall indemnify d.velop against such claims upon first request, taking into account the agreed limitation on liability. In addition, the supplier shall support d.velop in defending against such claims.
- 13.6 The supplier shall take out and maintain for the duration of the agreement a business liability insurance policy, which also covers the specific risks arising out of the operation and use of ITC systems, with an insured amount appropriate to this agreement and the individual agreements, but of not less than EUR 5 million for financial losses and EUR 10 million for personal injury and property damage. The supplier shall provide evidence of this to d.velop upon request at any time and without delay.

## **14 Export control**

The supplier shall be solely responsible for complying with the export regulations applicable to its performance. Upon request prior to the conclusion of the agreement, the supplier shall evidence to d.velop, at least in Text Form, that all deliverables fulfil the applicable legal and official requirements of the exporting country, the importing country and the agreed country of destination of the relevant individual contract between d.velop and its partner or end-customer. The supplier shall, at its own expense, obtain any necessary export control authorisations and permits, which only it can, maintain them for the duration of the agreement, and evidence this to d.velop at any time upon request.

## **15 Sub-contractors**

- 15.1 The supplier may only have its contractual obligations performed in whole or in part by sub-contractors with d.velop's consent. The supplier shall inform d.velop in Text Form, before concluding the agreement, of the sub-contractors already known. By signing the agreement, d.velop will be deemed to accept the engagement of these sub-contractors.
- 15.2 The supplier shall notify d.velop in Text Form at least eight weeks in advance of its intention to engage sub-contractors, or of any intended changes in sub-contracting arrangements. d.velop may for good cause object to the sub-contracting arrangement within four weeks of being notified pursuant to sentence 1. After this period has expired, d.velop will be deemed to have consented to the engagement of the relevant subcontractor. In the event of a well-founded objection, the supplier shall replace the sub-contractor

affected by the objection with another suitable sub-contractor or adapt the fulfilment of its contractual obligations in such a way that this can be done without the sub-contractor affected by the objection.

- 15.3 The supplier shall impose contractual obligations on the sub-contractor that offer at least the same level of protection as the obligations specified for the supplier in this agreement. This applies particularly, but not exclusively, to the contractual obligations regarding IT security and data protection.
- 15.4 Fault on the part of the sub-contractor is equivalent to fault on the part of the supplier.

## 16 d.velop's co-operation

- 16.1 Specific obligations on d.velop to co-operate may be agreed individually between the parties. Even without a corresponding agreement, d.velop shall be subject to the obligations to co-operate set out below.
- 16.2 d.velop shall grant the supplier the necessary access to its IT systems to enable proper performance. To the extent necessary, d.velop shall also grant the supplier access to its business premises.
- 16.3 In addition, d.velop shall provide the supplier with the information and data required for its performance in a format suitable for processing.
- 16.4 If d.velop breaches its obligation to co-operate, the supplier shall set d.velop a reasonable deadline in Text Form to remedy the breach. Any rights to refuse performance (*Leistungsverweigerungsrecht*) or withhold delivery (*Zurückbehaltungsrecht*) in relation to deliverables not affected by such lack of co-operation are excluded.

## 17 Suitability test

If a suitability test of the supplier is agreed between the parties, the supplier shall evidence, in accordance with the "Suitability Test" annex, its technical and commercial suitability once before the agreement is concluded. During the term of the agreement, the supplier shall maintain its suitability. On request, the supplier shall provide d.velop with meaningful evidence of compliance with the suitability criteria. The supplier shall immediately inform d.velop of any significant changes, at least in Text Form.

## 18 Self-disclosure and audit

- 18.1 During the term of this agreement, d.velop shall be entitled to carry out an audit at the supplier's premises by means of self-disclosure, or on site if and to the extent that self-disclosure is insufficient or is refused by the supplier. Audits may be carried out at any time for good reasons (*sachliche Gründe*). In particular, a good reason exists if there are reasonable indications of a detrimental change in contractually agreed suitability or that the supplier is in breach of contract. A good reason also exists if a customer or partner of d.velop requests an audit from d.velop for a good reason within the meaning of sentence 2. d.velop shall notify the supplier of the audit in Text Form within a reasonable time, stating the reason for the audit. The right to carry out security checks in accordance with sections 2.4 and 2.5 of the "Suitability Test" annex remain unaffected.
- 18.2 For auditing purposes, only a third party authorised by d.velop and subject to professional confidentiality, who is not a competitor of the supplier, may enter the supplier's business premises during normal business hours and without unreasonable disruption to business operations, inspect business documents within the framework of the applicable data protection laws, gain access to IT systems including their configuration, and make copies, in each case if and to the extent necessary to assess the cause for the audit. The third party shall only disclose to d.velop whether and, if so, how the suspicion of conduct in breach of the agreement has been confirmed. The supplier shall provide its full support within the scope of an audit as well as all necessary information.
- 18.3 Each party shall bear its own costs arising out of self-disclosure or an audit. Notwithstanding this, if an audit reveals that the supplier has breached its obligations to d.velop under this contract to a more than insignificant extent, the supplier shall bear the costs of the audit. All other claims on the part of d.velop remain unaffected. If, on the other hand, the suspicion is not confirmed, d.velop shall bear the costs of the audit, provided that the supplier is not at fault for the suspicion itself.

## 19 Change requests

- 19.1 If d.velop considers a change in performance to be appropriate, it shall inform the supplier in Text Form (the "Change Request"). After receiving the Change Request, the supplier shall notify d.velop in Text Form of the effects of the Change Request on the provision of its deliverables, particularly on deadlines, service level and payment, within a reasonable time, which shall generally not exceed one week. If d.velop abides by the Change Request after being notified, it shall issue a binding order in Text Form. The change in performance will become part of the individual agreement when the supplier receives the order. In urgent cases, the change in performance may also be ordered verbally and then confirmed in Text Form.
- 19.2 There will be no change in performance if:
- the Change Request only specifies deliverables already agreed in the individual agreement without this leading to significant additional expense for the supplier; or
  - the Change Request amounts to a cost-neutral exchange of the deliverables agreed in the individual agreement for other deliverables, without this leading to significant additional expense for the supplier.
- The change in performance shall then be taken into account immediately upon receipt by the supplier.
- 19.3 The supplier may at any time notify d.velop in Text Form in accordance with clause 19.1 of a Change Request to deliverables that it deems appropriate. Due to its proximity to its own deliverables, the supplier's Change Request shall already describe the effects of the Change Request on the provision of the deliverables, particularly on deadlines, service level and payment. d.velop shall consider the supplier's Change Request within a reasonable time. There is no obligation on d.velop to implement the Change Request.
- 19.4 If the supplier considers a Change Request by d.velop to not be technically feasible or unreasonable, it may reject it, stating its reasons. If the Change Request is feasible with amendments or additions, the supplier shall inform d.velop of this in Text Form and at the same time submit an offer to implement the amended or supplemented Change Request.

19.5 Each party shall bear its own costs in relation to a change procedure. This shall not apply to consultancy services which d.velop expressly commissions as such in connection with a change procedure, particularly organising workshops, provided that payment is expressly agreed for this.

**20 Acceptance**

20.1 If the supplier's deliverable is the performance of work (*Werkleistungen*) or if acceptance has been agreed in the individual agreement, the following provisions and, if applicable, the supplementary provisions in the individual agreement will apply.

20.2 The supplier shall notify d.velop in Text Form of the completion of the deliverables to be accepted and their provision for acceptance on the agreed date. d.velop shall inspect the deliverables within a reasonable time of receiving such notification and prepare an acceptance report in which any defects are recorded.

20.3 The acceptance of partial deliverables ("Partial Acceptance") shall not restrict d.velop from later asserting defects in parts of deliverables that have already been partially accepted if such defects only become apparent through interaction with other parts of the deliverables or d.velop's systems during subsequent Partial Acceptances. A Partial Acceptance will never constitute an overall acceptance in itself.

20.4 Significant defects will entitle d.velop to refuse acceptance. The supplier shall remedy such defects immediately and, after a reasonable grace period of not more than one month, make the deliverables to be accepted available again for acceptance in their entirety.

20.5 If there are solely defects which only insignificantly impair the use in compliance with the agreement of the deliverables concerned, d.velop shall declare acceptance in Text Form after completing its inspection. The obligation to remedy the defects immediately remains unaffected.

**21 Term and cancellation**

21.1 The framework agreement incorporating these GTCP (the "Framework Agreement") will become effective upon signing and will have an unlimited term.

21.2 Unless otherwise agreed, the framework agreement may be terminated by either party for the first time after twelve months on six months' notice, taking effect at the end of a contractual year.

21.3 Individual agreements for services to be provided on an ongoing basis will become effective when d.velop places an order and the supplier confirms such order, or when the supplier begins providing deliverables in response to an order from d.velop. Unless otherwise agreed, such individual agreements have an unlimited term.

21.4 Unless otherwise agreed, individual agreements will have a minimum term of twelve months. The minimum contract term begins with the initial provision of the deliverable. When the minimum term expires, the agreement will be extended by a further twelve months in each case, unless terminated by one of the parties on six months' notice, taking effect at the end of the contractual year. The same applies to the cancellation of separable partial performance and a reduction in the number of users. Individual agreements for deliverables to be provided once or within a certain period will end when the last deliverable is provided, without the need for cancellation.

21.5 The right to extraordinary cancellation for a compelling reason remains unaffected (s. 314 German Civil Code). A compelling reason will be deemed to exist in particular:

- a) if the supplier can no longer evidence its suitability; or
- b) if there is a change in the supplier's shareholding or management relationships and this is likely to have a serious adverse effect on d.velop's interests. This is particularly, but not exclusively, the case if a company competing with d.velop acquires shares in the supplier, at least to such an extent that a blocking minority is created, or if it acquires a controlling influence on the supplier's business interests in any other way.

21.6 Any cancellation shall at least be in Text Form.

**22 Consequences of termination**

22.1 From receipt of a cancellation of the Framework Agreement, the supplier shall only be obliged to perform if d.velop can prove that a customer contract has been concluded or that a legally binding offer exists, and the Framework Agreement has not yet come to an end when the customer contract is concluded or the legally binding offer is submitted.

22.2 Individual agreements between the parties will remain unaffected by the cancellation and termination of the Framework Agreement.

22.3 Upon request made no later than one month before the termination of an individual agreement, the supplier shall assist d.velop in transferring the deliverables to another provider or to d.velop.

**23 Switching between data processing services and exit under the Data Act (Regulation EU 2023/2854)**

23.1 d.velop may, at its request or at the request of its partner or end customer, switch to another data processing service or transfer or delete all exportable data and digital assets to an ICT infrastructure on its own premises or at the premises of the partner or end customer. d.velop must inform the supplier of this intention with two months' notice. In the event of a switch to another provider, d.velop shall provide the supplier with the necessary information about the new provider, in particular its name.

23.2 During the switch, the following may be transferred:

- Any categories of data that d.velop or its partner or end customer has stored in the supplier's systems; 'Data' within the meaning of the Data Act refers to any digital representation of actions, facts or information, as well as any compilation of such actions, facts or information, including in the form of audio, visual or audiovisual material; for each date, a JSON file containing all metadata (e.g. attributes, version information and links to file structures) can also be exported;

- any categories of digital assets that d.velop or its partner or end customer has stored in the supplier's products; 'Digital assets' within the meaning of the Data Act refers to items in digital form – including applications – for which d.velop or its partner or end customer has a right of use, regardless of the contractual relationship with the data processing service that it wishes to switch; Third-party applications for which there is no contractual relationship between d.velop and the supplier remain under the control of d.velop or its partner or end customer and are merely connected to the supplier's products via an interface.

- 23.3 After expiry of the notice period in accordance with Section 23.1, the supplier shall enable d.velop to transfer or migrate the exportable data and digital assets to its own ICT infrastructure or that of its partner or end customer within a transition period of no more than 30 days. If the transition period of 30 days is not technically feasible, the supplier shall notify d.velop of this within 14 working days of the notification by d.velop in accordance with Section 23.1, duly justify the technical unfeasibility and specify an alternative transition period, which may not exceed seven months. During this alternative transition period, d.velop or its partner or end customer may continue to use the products unchanged. d.velop is entitled to extend the transition period once for a period that it or its partner or end customer deems more appropriate for its own purposes.
- 23.4 For the export of data and digital assets, the supplier shall provide d.velop with an export interface that d.velop or its partners or end customers can use to carry out the export themselves. In addition, the supplier shall provide an accurate and always up-to-date description of this interface. Use of the interface is free of charge. If necessary, the supplier shall support d.velop or its partner or end customer in exporting the data and digital assets. The supplier may request reimbursement from d.velop for any costs incurred in direct connection with this. The supplier shall agree the amount of the costs with d.velop in advance.
- 23.5 After expiry of the transition period specified in Section 23.3, d.velop shall retrieve the exportable data and digital assets within a retention period of 30 days. After expiry of this retention period, the exportable data and digital assets shall be completely deleted by the supplier, provided that the transfer or export has been successfully completed.
- 23.6 Once the switch or export has been successfully completed, the contract shall be considered to be terminated. If d.velop or its partner or end customer does not wish to switch but to delete the exportable data and digital assets after termination of the service, the contract shall be considered to be terminated upon expiry of the notice period specified in Section 23.1.
- 23.7 The supplier shall provide d.velop and third parties authorised by it with appropriate support in implementing the change, taking into account the exit strategy of d.velop or its partner or end customer. Within this framework, the supplier shall, among other things, provide d.velop with all relevant information. With regard to the costs of this support, Section 23.4 sentence 7 shall apply accordingly.
- 23.8 The supplier shall also act with due care to maintain the continuity of the business operations of d.velop or its partner or end customer during the switch and to continue to provide the functions or services specified in the contract. The supplier shall inform d.velop in good time of any known risks to the uninterrupted provision of the functions or services attributable to the supplier as the original provider of the data processing services. During the switching process, the supplier shall ensure a high level of security; this applies in particular to the security of the data during its transfer and the continuous security of the data during the retention period specified in Section 23.5.
- 23.9 The supplier shall provide d.velop with information on the jurisdiction to which the ICT infrastructure established for the data processing of the individual services is subject, as well as a general description of the technical, organisational and contractual measures taken by the supplier to prevent international government access to or international government transfer of non-personal data stored in the Union.

## 24 Confidentiality

The parties shall keep confidential information confidential in accordance with a separate confidentiality agreement.

## 25 Data protection and IT security

- 25.1 The parties shall comply with the data protection regulations applicable to them.
- 25.2 If and to the extent that the supplier processes the personal data of d.velop and/or its partners and end-customers in accordance with instructions in the context of providing its deliverables, the parties shall conclude a data-processing agreement (*Auftragsverarbeitungsvertrag*) before the start of the processing.
- 25.3 The supplier warrants that it has checked the software and data storage media, to be provided or otherwise used by it as part of its performance, for malware using an up-to-date and leading programme before providing or using these. The supplier further warrants that such software and data storage media do not contain any malicious software (software with malicious functions, for example, malware, keyloggers, viruses, worms, or Trojan horses) at the time of transfer or use.
- 25.4 The supplier warrants that the hardware or software to be delivered or otherwise provided by it is free of functionality that may jeopardise the integrity, confidentiality and availability of such hardware or software, other ITC systems or data and documents, and thus run counter to the confidentiality or security interests of d.velop or its partners and end-customers through functions for the:
- unwanted transmission of data or documents;
  - unwanted modification of data, documents or their processing and use; or
  - unwanted introduction of data or documents, or unwanted functionality, into the ITC systems of d.velop or its partners and end-customers.

A possible activity of a function is undesirable if:

- d.velop did not request the activity in a description of deliverables;
  - the supplier did not expressly offer the activity as part of the deliverables with a concrete description of the activity and its effects;
- or

c) d.velop did not expressly agree to the use of the functionality in writing in individual cases before its delivery or other provision.

## **26 Code of Conduct**

- 26.1 The supplier shall comply with the expectations and requirements set out in the "d.velop Code of Conduct for Suppliers and Business Partners" (the "Supplier CoC"). The Supplier CoC is available at the following link: [Supplier Code of Conduct](#). It is an integral part of the agreement concluded with the supplier and forms the basis of the cooperation.
- 26.2 The supplier shall appropriately address the expectations expressed in the Supplier CoC, as well as d.velop's requirements, throughout its supply chain and inform d.velop as soon as it obtains substantiated knowledge of the breach of an expectation expressed in the Supplier CoC in its supply chain.
- 26.3 Furthermore, the supplier shall report to d.velop, upon request annually or for a specific reason, on the implementation of the requirements in the Supplier CoC. This includes requests for information, compliance guidelines, certifications and evidence of training provided, working conditions, and compliance with environmental and social standards. The supplier shall ensure that all relevant documents are accessible and that compliance can be assessed transparently.
- 26.4 The right to audit under clause 18 will also apply in the event of suspected breaches of this clause 26.
- 26.5 If a breach of the provisions of this Supplier CoC is identified, d.velop shall notify the supplier immediately in writing and define a reasonable grace period within which the supplier shall bring its conduct into line with the provisions of the Supplier CoC. If a remedy is not possible in the foreseeable future, the supplier shall notify d.velop immediately and, together with d.velop, draw up a concept with a timetable for ending or minimising the breach. If the grace period expires with no satisfactory outcome, or the implementation of the measures contained in the concept does not remedy the situation after expiry of the timetable and no less restrictive measures are available, d.velop may discontinue the business relationship and terminate all contracts with the supplier. A statutory right to extraordinary termination without setting a grace period, particularly in the case of very serious breaches, remains unaffected, as does the right to compensation.

## **27 References**

- 27.1 Unless otherwise agreed, both parties may mention their present cooperation in their external interactions. In doing so, each party may mention the other party by name and with a brief description and use the other party's logo. The other party shall provide the brief description and logo after the agreement is concluded. The parties may not use other brief descriptions and/or logos.
- 27.2 Any further use of references requires a separate agreement.
- 27.3 Consent granted in accordance with clause 27.1 may be revoked at any time with future effect.

## **28 Amendments to the GTCP**

- 28.1 d.velop may amend the GTCP. d.velop shall only amend for good cause, in particular due to new technical developments, changes in jurisprudence or other similar reasons. Any other amendments require the supplier's consent. If the amendment significantly affects the contractual equity between the parties, it shall not be made.
- 28.2 d.velop shall notify the supplier at least in Text Form of any amendments at least eight weeks before they take effect. The supplier's consent within the meaning of clause 28.1 sentence 2 will be deemed to have been granted if the supplier does not object to an amendment, at least in Text Form, within four weeks of being notified. If there is any objection, the amendments will not become effective.

## **29 Applicable law, place of jurisdiction**

- 29.1 This agreement will be governed by German law to the exclusion of conflict-of-laws provisions and the UN Convention on Contracts for the International Sale of Goods.
- 29.2 d.velop's registered office is the exclusive place of jurisdiction for all disputes arising out of or in connection with this agreement.

## **30 Miscellaneous**

- 30.1 There are no verbal or written ancillary agreements to this agreement. Amendments and supplements to the agreement shall be made at least in Text Form. This also applies to the waiver of this Text Form requirement.
- 30.2 The parties may only transfer the agreement, and any rights and obligations arising out of it, to a third party with the prior consent of the other party in Text Form. This will not affect cases of statutory universal succession (*Gesamtrechtsnachfolge*).
- 30.3 If individual provisions of the agreement are invalid or unenforceable, this will not affect the validity of the remaining provisions. The parties undertake to replace such provisions with valid and enforceable provisions corresponding as closely as possible to the meaning and commercial purpose as well as the intention of the parties at the time the agreement was concluded. The same applies in the event of an unintended omission in the agreement.