

The Contractor (hereinafter DCCS) provides Services to the Customer (hereinafter CU) on the basis of the General Terms and Conditions (GTC) described below. They also apply to all present and future deliveries and services to the client, even if they are not explicitly agreed upon again.

These GTC and the other contractual documents (order documents, specifications, Service Level Agreement, etc.), including all attachments referred to, constitute the contract in its totality. In case of contradiction between individual agreements and these GTC, the individual agreements shall prevail.

Any Conditions on the part of the customer are hereby expressly contradicted, and DCCS shall not be bound by them even if DCCS does not contest them explicitly after receipt.

Oral agreements and assurances undertaken by employees of DCCS during the conclusion or the performance of the contract shall only be considered as binding when DCCS provides the corresponding written confirmation.

Regarding sales to consumers in the sense of the consumer protection law the following provisions only apply insofar as the consumer protection law does not provide other mandatory provisions.

## 1. Provision and scope of services

The services to be provided by DCCS can, in particular, include:

- Delivery of hardware and standard software
- Writing of custom software
- Consulting
- Training
- Support services
- Maintenance
- Data Processing Center (DPC) services, Application Service Providing (ASP) and online services.

DCCS provides its services on the basis of the information, documentation and support, which the customer shall make available in its entirety, including, if necessary, sufficient practice-related test data and test possibilities. If the Customer uses in a productive environment a system made available for testing and implementing purposes, the Customer shall bear full responsibility for the backup of data. DCCS shall not be responsible for any loss of data. Any documentation sent to the Customer shall be in electronic format. Unless otherwise agreed explicitly, the training of the Customer and its employees for the services provided (programs, etc.) shall not be included in the price. Promises about performance characteristics shall only be binding if DCCS provides the corresponding written confirmation.

Provided that DCCS recommends at the request of the Customer services of third parties, arising contacts are solely closed between Customer and third party. In this case the respective General Terms and Conditions of the third party apply. DCCS is only responsible for services provided by DCCS.

### *Delivery of hardware and standard software*

Provided that DCCS delivers hardware and software, the delivery takes place at the risk of the Customer. The risk is transferred to the Customer as soon as the goods are handed over to the shipper or freight carrier. If, in the case of hardware, the delivery to a specified installation site was agreed upon, the Customer will check the suitability of the transportation path from his front door to the installation site and, if need be, adapt the path at his own expense. Claims resulting from transport damages have to be submitted with a detailed description of the damage to the carrier and DCCS immediately upon receipt of the goods.

### *Services ("Dienstleistungen")*

If DCCS provides services, especially in the case of consulting, training and support, including the provision of personal resources, these shall be performed by DCCS with due care, using state-of-the-art technology and in accordance with the written conceptual formulation of the service. For the provision of these services, the regulations applicable to service contracts ("Werkvertragsrecht") shall not apply. Therefore, the Customer himself shall bear responsibility for the results aimed for and achieved.

### *Work supplied in the context of a contract for work and services ("Werkleistungen")*

The basis for the development of computer programs and other works supplied are the written specifications made available by the Customer or prepared (and therefore invoiced) by DCCS, which are based on the information and documentation made available to DCCS. The Customer shall check if the specifications are complete and correct. Requests for modifications made at a later date may lead to price and deadline alterations. Unless otherwise agreed, DCCS shall remain in possession of the source code of the developed programs, which shall not be given to the Customer.

### *Maintenance*

The contract can also provide for the maintenance of programs and systems. Unless otherwise agreed, maintenance of a program includes the upload of bug fixes, service packs and updates, but not the upgrade to newer versions (major releases).

### *ASP, DPC and online services*

The scope of the services to be provided shall be stipulated in the order document and the Service Level Agreement (SLA). DCCS provides the Customer with the services agreed upon and makes them available via network connections up to the agreed point of service delivery. The Customer shall be responsible for the connection from this point onwards.

The services to be provided by DCCS can, in particular, include the provision and/or operation of applications, DPC services, such as databases, archiving or online services (cloud services, etc.).

## 2. Inspection and acceptance of work supplied in the context of a contract for work and services ("Werkleistung")

In respect of work supplied in the context of a contract for work and services ("Werkleistung") and if agreed upon, DCCS shall prove to the Customer, after the provision of the service, via a delivery test and using test data and test scenarios made available by the Customer, that the performance characteristics have been fulfilled in accordance with the specifications of the service. The contracting parties shall draw up a delivery report on this procedure. If there is no provision for such a delivery test, a specific acceptance procedure will not be necessary.

After a successful delivery test, the Customer shall accept the service immediately. The delivery test will be deemed successful if no faults become apparent that make it impossible to use the supplied work as it is intended to be used or limit it in an unacceptable way. This shall not affect any warranty claims. If the Customer refuses to accept the service in spite of a successful delivery test, the service shall be considered accepted as of the day the delivery test was carried out. If the services provided, especially programs and systems, are used by the Customer in a productive environment, these services shall definitively be considered accepted from the moment they are in operation. If the delivery test does not take place for reasons beyond DCCS's responsibility, the service shall be considered accepted two (2) weeks after its completion has been declared.

The Customer shall immediately note in writing in the delivery report, providing sufficient details, any possible faults, so that they can be acknowledged by DCCS.

In case of services, maintenance services, ASP and DPC services as well as online services, there is basically no provision for acceptance.

## 3. Customer's use of ASP, DPC and online services

The Customer himself shall be responsible for the inputting and maintenance of the data and information required to use ASP, DPC and online services. The Customer shall remain "master of the data", and thus responsible for compliance with the data protection regulations. The Customer is obliged to observe all applicable legislation when using the services. It is prohibited to store or transmit data and information which contravene legal regulations or offend common decency or which interfere with or infringe commercial property rights, copyrights or any other third-party rights. DCCS is entitled to block access to information or data if parts of it are illegal or under the objectively justifiable suspicion of being so.

#### 4. Copyrights and rights of use

##### **For Standard Software**

The by the Customer acquired rights of use for standard software and software products developed by DCCS depend on the agreed license and usage terms. Upon payment of the agreed upon fee, DCCS grants the Customer the non-exclusive right to use the software solution solely for his own purposes, only for the hardware specified in the contract and to the extent of the purchased number of licenses. The Customer acquires only the right to use the work ("Werknutzungsbewilligung"), and he is not allowed to transfer this right to third parties.

As for standard software of other manufacturers provided by DCCS, the right of use acquired by the customer will be subject to the license conditions and conditions of use of the corresponding program manufacturer or licensor.

##### **For work supplied in the context of a contract for work and services ("Werkleistungen") and services ("Dienstleistungen") provided by DCCS**

Unless otherwise agreed, DCCS grants the customer a limited, non-exclusive and indefinite license to use ("Werknutzungsbewilligung") the products provided by DCCS (programs, documentation, solution concepts, studies, etc.). This specifically applies to custom software that was developed by DCCS on behalf of the Customer. Furthermore, DCCS or its Licensor shall retain all copyrights and exploitation rights in respect of the results achieved by its work and services. The Customer shall not acquire any rights beyond the agreed provisions as a result of any possible co-operation on his part in the production of the service or the work.

##### **Processing of materials made available by the Customer**

If the Customer commissions DCCS to process materials (programs, documentation, etc.) for which third-party rights exist, the Customer shall ensure that the conditions of use for such materials do not conflict with their processing, otherwise he shall be responsible for providing authorisation from the corresponding rights holder and shall indemnify, protect and exempt DCCS from any responsibility in this matter.

##### **Use of the programs provided under the ASP, DPC and online services**

If DCCS provides programs, the scope of the right of use and the associated rights and duties shall be laid down in the conditions of use (licensing terms) of the particular program.

If the Customer runs his own programs on DCCS's data processing equipment or commissions DCCS to run programs provided by him, the Customer shall ensure that the agreed operation of these programs on DCCS's data processing equipment does not constitute a breach of any statutory regulations, especially of copyrights or other intellectual property rights of third parties. If third parties make such claims against DCCS, the Customer shall indemnify, protect and exempt DCCS from any responsibility in this matter.

#### 5. Third-party property rights on programs

If DCCS grants the Customer rights of use on programs, DCCS ensures that it is entitled to grant the agreed rights of use and that the Customer's use of the programs, in accordance with the provisions of the contract, shall not infringe third-party property rights.

If a third party asserts a claim due to an infringement of a commercial property right or copyright, or if such claims are foreseeable, DCCS can acquire a right of use at its own expense, modify the program or replace it with a product of at least the equivalent value. If this is not possible at a reasonable expense, the Customer agrees to cease using and, if necessary, to return the program to DCCS upon written request from the latter. In that case, DCCS shall reimburse the Customer the license fee paid or, in the case of recurring service charges, the amount equivalent to twelve (12) monthly payments. The assertion of any further claims is hereby ruled out.

#### 6. Domain registration

If agreed upon, DCCS shall procure and register the Customer's Internet domains. All this shall be done on behalf and for account of the Customer. The conditions of the competent registration body shall apply. The Customer authorises DCCS to take all measures and steps necessary for registration and reimburses DCCS for all costs accruing from the registration and maintenance of the domain.

DCCS does not guarantee that the domains applied for will be available and will not be subject to the rights of third parties.

#### 7. Security of data

DCCS employs state-of-the-art security measures, such as firewalls, virus scanners, etc., with a view to preventing, as far as possible, unauthorised access to its data processing equipment and networks and the resulting manipulation of and damage to the data stock, as well as the transmission of harmful program parts (viruses, worms, "Trojans", etc.). DCCS is entitled to delete data stock that has been contaminated by harmful program parts if the danger posed by this data stock cannot be eliminated reliably and at a reasonable technical and financial cost in any other way. DCCS shall inform the Customer about this.

The Customer, for his part, is obliged to ensure, by using, as far as is possible, appropriate measures such as virus scanners, etc., that data which he stores on DCCS's data processing equipment is free from harmful program parts. Moreover, the Customer shall take appropriate measures, within reasonable limits, to prevent any unauthorised access to DCCS's data processing equipment and networks via his own data processing systems.

#### 8. Reservation of ownership

DCCS reserves the right of ownership of any hardware and standard software delivered by DCCS until the purchase price has been paid in full. Receivable demands of the Customer arising from a potential resale of the items subject to reservation of ownership shall be assigned to DCCS immediately.

#### 9. Customer co-operation

The success of the service to be provided by DCCS depends on the co-operation of the Customer. Therefore, the Customer shall take all necessary measures within his sphere of influence to ensure the adequate provision of the services. If necessary, the Customer shall in particular:

- name, at the beginning of the project, all contact persons and those employees supporting DCCS's employees in the provision of the service and ensure their participation;
- in respect of ASP and DPC services to be provided by DCCS, name a person responsible for the system as well as a substitute on the Customer's side;
- provide in good time and continuously update all the information needed to fulfil the project tasks;
- notify DCCS immediately of any identifiable faults or malfunctions;
- take all reasonable measures to make it possible to find faults and malfunctions as well as their causes and facilitate and support their remedy or removal;
- facilitate access to the Customer's equipment and systems and provide access to all required servers;
- support DCCS in the preparation and conduct of all the necessary meetings and ensure, for his part, the attendance of all relevant staff members;
- provide DCCS's staff with all rooms and workspaces needed to complete tasks on the Customer's premises.

If the obligations to co-operate are not fulfilled or only partially fulfilled, deadline delays and cost increases may occur, in which case responsibility for these shall be borne by the Customer.

#### 10. Place of provision of services, periods of delivery and completion deadlines

Unless otherwise agreed, the place of performance for all contractual services is the place of business of the Contractor. Agreed periods of delivery and completion deadlines are always approximations and non-binding. Target completion deadlines can only be observed if the Customer provides in a timely and thorough manner all required documents, finishes all preliminary work and fulfills his obligation to participate in all points. Delays in delivery and cost increases that are caused by incorrect, incomplete or subsequently altered specifications and information respectively provided documentation shall not result in a DCCS delay in performance. In this case, the Customer will have to bear additional costs.

#### 11. Changes

Either contracting party may submit to the other party a written request for the scope of services agreed upon in the contract to be modified. After receiving such a request for changes, the receiver shall verify if and on what terms the requested changes can be carried out and shall immediately inform the submitter of his consent or refusal.

If the Customer's request for changes requires extensive verification, the costs of this shall be invoiced separately to the Customer. All contractual adjustments needed to make a change shall be carried out under a separate agreement.

DCCS may unilaterally modify the services it has agreed to provide if this measure implies no or only minor disadvantages for the Customer. DCCS shall inform the Customer about this.

## 12. Subcontracts

DCCS is entitled to appoint a third party to provide the services. In that case, DCCS shall remain responsible for the services provided.

## 13. Remuneration, invoicing, payment

All prices exclude the applicable statutory rates of VAT (sales tax) as well as all costs for transport, insurance, installation and set-up, which are also charged to the Customer.

Unless otherwise agreed, remuneration shall be at cost. The hourly rates and other costs shall be calculated according to DCCS's applicable rates (DCCS price list). Services rendered outside regular DCCS business hours will be charged with appropriate surcharges. The invoicing for the services and expenses, which are to be paid for at cost, shall be carried out monthly in arrears. If applicable, travel expenses shall be billed separately. In the absence of any specific agreement to the contrary, this shall also apply if a flat rate price has been agreed. Travel time shall count as work time.

Recurring fees shall be payable monthly and in advance. If a single payment is agreed upon, half of it shall be due when placing the order and the rest after completion of the service.

Unless otherwise agreed, the recurring fee for ASP, DPC and online services includes the stipulated services in the agreed quantity or size, e.g. storage space, number of users, etc. Appropriate methods of measurement will be used to determine the actual quantity/size used by the Customer and records on this shall be kept. If the agreed quantity/size limit is exceeded, the difference shall be charged. If the agreed quantity/size limit is not reached, there shall be no refund.

In the case of an order comprising several clearly defined units, DCCS is entitled to provide the service in parts and to make out partial invoices.

If work supplied in the context of a contract for work and services ("Werkleistung") is incomplete or defective, the Customer shall be entitled to retain a reasonable part of the payment, though not more than one and a half times the estimated cost if another contractor had to perform the work.

The Customer shall bear the costs of the payment transactions. In the event of delayed payment, after fixing a reasonable period of grace, DCCS shall be entitled to discontinue further services until the debt has been paid in full.

Customer approval of electronic invoice transmission: The Customer agrees to the delivery of the invoice via e-Mail

Invoices are due within fourteen (14) days after receipt without any deduction. In the event of delayed payment, DCCS shall charge the statutory interest for delayed payment.

In the case of delayed payment, the Customer is obligated to refund DCCS all pre-trial costs such as legal fees and debt collection agency costs.

## 14. Value adjustment of recurring fees

Recurring fees are subject to a stable value arrangement on the basis of the price index "Verbraucherpreisindex 2020" announced by the Statistik Austria, taking the month in which the order was placed as the base for the calculations. For each subsequent year the fee shall be adjusted on the basis of the index figure announced for November of the previous year and shall come into effect from the beginning of the year. DCCS shall inform the Customer of the adjusted fee.

## 15. Duration and termination of the contract

The contract shall expire

- on completion of the tasks, if the scope of the contract envisages the provision of particular services;
- once the contract has run its term, if the contract is for a fixed period;
- on cancellation, if the contract is for an indefinite period. Unless otherwise agreed, the contract may be cancelled at any time and shall be effective as of each month's end provided a notice period of one month has

been given and, in any case, not before the contract has run an agreed minimum term.

The contracting parties shall be entitled to cancel the contract for important reasons without being subject to a notice period. "Important reasons" would include the following: the instigation of insolvency proceedings against one of the contracting parties or if these are refused owing to insufficient assets to cover the costs of such proceedings; his economic situation deteriorates considerably and therefore the other contracting party cannot be expected to hold onto the contract; the Customer does not fulfil or only partially fulfils his payment duties after a reasonable period of grace has been fixed; or if one of the contracting parties breaks essential contractual obligations.

**For Maintenance contracts for hardware and software and for contracts on ASP, DPC and online services, the following derogations shall apply:**

Unless otherwise agreed, the minimum term shall be twelve (12) months. Both contracting parties are entitled to cancel the contract at any time and shall be effective as of each month's end provided a notice period of three months has been given and, in any case, not before the contract has run an agreed minimum term.

If, in the case of maintenance contracts, the manufacturer discontinues the maintenance of components, DCCS is entitled to cancel the contract at any time during the month and shall be effective as of each calendar month's end provided a notice period of three months has been given. This also applies if the manufacturer discontinues the maintenance of programs, which DCCS provides under its ASP and online services.

## 16. Withdrawal from the contract

If the agreed deadlines are exceeded due solely to DCCS, the Customer shall be entitled to withdraw from the contract by registered mail if DCCS still fails to provide the essential elements of the agreed service within a reasonable period of grace and if no fault is to be attributed to the Customer.

Force majeure, labour disputes, natural disasters and other circumstances which are beyond the influence of DCCS release DCCS from its obligation to provide the service or allow DCCS to extend the agreed deadlines.

If the Customer unduly withdraws from a contract or part of it, DCCS shall be entitled to charge, in addition to the services provided and the costs incurred, a cancellation fee of 30% of the order value of the still unperformed services.

If, in the course of the project, it transpires that the fulfilment of the contract in accordance with the contractual specifications is legally or de facto impossible, or economically unacceptable, DCCS is obliged to inform the Customer about this immediately. If the Customer does not modify the contractual specifications to that effect or does not create the conditions which make its execution possible or acceptable, DCCS shall be entitled to refuse to fulfil the contract. The Customer shall refund DCCS for any costs and expenses accruing up until then, as well as possible disassembly costs.

## 17. Liability

DCCS shall be liable for damages, as stipulated under the law, if it can be proved that wilful intent or gross negligence were present. Liability for slight negligence – with the exception of personal injury - shall be excluded.

DCCS's liability for damages claimed by third parties, for lost profits or savings not achieved and for any other indirect or consequential damages shall in any case be limited to the amount of the cost of the service that caused the damage, and in the case of recurring services, to the annual cost of the service.

## 18. Warranty

DCCS warrants that all services provided by DCCS comply with the contractual specifications of service applicable in any case.

If not explicitly agreed upon, technical data (i.g. manufacturer's data about hardware and software) do not constitute a promise of guarantee and no warranty claims can be derived from them.

In the event that faults become identifiable, the Customer shall notify DCCS immediately about these, in any case within four weeks after the delivery of the agreed services resp. in the case of custom software after program acceptance. Any notification of faults has to be made in writing resp. via e-Mail and contain an exact description of the fault. DCCS shall remedy the fault within a reasonable period of time. If the faults reported by the Customer are not covered by the warranty, then the Customer shall bear the costs for the troubleshooting and, where applicable, the repair of the fault.

Basically, the warranty period is six (6) months. In respect of hardware, the warranty period is twelve (12) months. The Customer has to produce evidence that a fault, even if it occurs during the warranty period, has already existed upon delivery. DCCS shall have the option of providing warranty either by improving or by replacing the service. If it is impossible or inappropriate to improve or replace the service, the Customer is entitled to a reasonable price reduction. In the event that contract penalties are imposed on service levels of the contractual services, e.g. availability, these contract penalties shall cover all warranty claims and compensation for non-compliance with the service levels; but further claims against DCCS shall be ruled out.

Warranty for non-reproducible faults is excluded. Furthermore, DCCS shall not accept warranty claims for faults resulting from improper use or maintenance or from changes made to the service provided by DCCS by the Customer or a third party attributable to the latter. The warranty does not apply to parts subjected to wear and tear and accessories and ceases to apply if serial number, type designation or similar codes have been removed or made illegible.

DCCS does not guarantee that the services offered are available without interruption or that the requested connections can always be established or that the stored data will be conserved in all circumstances.

As for firewalls and virus protection programs put up or installed by DCCS, DCCS points out that absolute security in this respect cannot be guaranteed. Therefore, warranty or compensation cannot be used as grounds for any liability claim in the event of damage to programs.

DCCS does not guarantee that all the Customer's functional requirements can be met by using the components made available by the Customer.

If services that come under the regulations of point 1 of these General Terms and Conditions (such as consulting or support services) are provided within the framework of the contractual relationship, then the Customer shall be responsible for the results achieved and shall not be entitled to warranty.

#### ***Special conditions of warranty for custom software and for standard software developed by DCCS***

In respect of custom software and of standard software developed by DCCS, the following shall also apply:

DCCS warrants that the program can be used in the specified system environment and fulfils the functions stated in the program specification. DCCS does not warrant that the operation of the program will be completely error free and uninterrupted. Nevertheless, in the event that during the warranty period a fault becomes apparent which significantly impairs the use of the program, DCCS has the option of remedying the fault in the following ways:

- by providing updates, bug fixes or newer versions of the program;
- by removing the fault in any other way or by showing how to avoid the fault or the effects of the fault.

A fault shall only be remedied if the following conditions apply:

- the program is used in accordance with the instructions/specifications,
- the program is not modified, edited, further developed or merged with other programs,
- the notified fault is reproducible at DCCS's facilities
- the Customer has updated the operating system with the releases or service packs required by DCCS and
- the specified system environment is sufficiently configured.

DCCS shall be entitled to request that the Customer proves the faults using his version of the program.

#### ***Special conditions of warranty for standard software of other manufacturers***

In respect of standard software, the warranty conditions of the program manufacturer shall apply. DCCS shall not be liable for any warranty beyond these conditions.

### **19. Confidentiality and data protection**

The contracting parties undertake to treat in strict confidence all company and operational secrets and information referred to as confidential which they gained knowledge of in the context of the contractual relationship. This obligation shall lapse five (5) years after termination of the project.

The contracting parties shall ensure that the employees and, if need be, subcontractors they assign to the project are aware of and comply with the provisions of this clause.

The Customer is obliged to maintain the secrecy of his passwords and to change them if they become known, unless it is indispensable not to do so.

The Customer shall be solely liable for damages arising from insufficient secrecy of his passwords on the part the Customer.

The Customer agrees that DCCS and other associated companies (§ 15 of the Austrian law on public limited companies ("Aktengesetz")) of DCCS may save, process and use the Customer's business and contact information divulged during the realisation of the project, including turnover figures and other business data, names, telephone numbers and e-mail addresses. Such information may be processed and used in the context of the existing business relations and passed on to subcontractors, DCCS's sales partners and authorised agents of DCCS or DCCS's associated companies for the purposes of joint business transactions and particularly for marketing purposes and the marketing activities of DCCS.

In its publications, DCCS is entitled to refer to the business relations with the Customer and to key data concerning current or completed projects and orders involving the Customer.

### **20. Loyalty**

The contracting parties pledge reciprocal loyalty. They shall not, either directly or through third parties, make offers of employment to or employ staff who were working for the other party on the same project, during the term of the contract and twelve (12) months after its termination. The party failing to observe this provision shall be liable to disburse a flat-rate compensation payment equivalent to one annual salary of the corresponding employee.

### **21. Consumer right of withdrawal**

Provided that the contract comes into force through distance selling, consumers will upon conclusion of the contract be informed by DCCS in the sense of the consumer protection law about a possibly applying right of withdrawal.

### **22. Assignment of contract**

DCCS is entitled to entirely assign the contract with debt releasing effect to another associated company (§ 15 of the Austrian law on public limited companies ("Aktengesetz")).

Moreover, the contracting parties are entitled to assign the contract with debt releasing effect to third parties if the other contracting party agrees. The affected contracting party shall only refuse to give his consent for important reasons. Important reasons would be, in particular, if there were reasons to doubt that the third party will fulfil its contractual obligations or the affected party has reason to fear other not insignificant, objectively verifiable disadvantages stemming from the assignment of the contract.

### **23. Severability clause, authentic version**

If any stipulation of this contract is or becomes ineffective, this does not affect the validity of the remaining stipulations. The ineffective stipulation is to be replaced with a stipulation that comes closest to the economic objective of the contracting parties.

In the event of conflict or inconsistency between the German version of these General Terms and Conditions and any translation provided by DCCS the German version shall prevail.

### **24. Choice of law, place of jurisdiction**

Austrian law is valid, excluding the conflicts of law provisions thereof and the United Nations Convention on Contracts for the International Sale of Goods (CISG). Any lawsuits arising from the contract shall be heard in the competent court at the place of business of the contractor.