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## Terms and Conditions

These Terms and Conditions apply for all Services as agreed between

Philipps & Byrne GmbH, Havelberger Str. 12, 10559 Berlin, Germany  
("Company")

and our Clients, as defined in the Individual Contract  
("Client"):

### § 1 Subject Matter

#### 1.1 Service Description

The subject matter of these Terms and Conditions is the performance of the Technical Due Diligence and other connected consultancy and support services (the "Service") described below on the basis of an Individual Contract ("SOW").

#### 1.2 Delivery method

Company generally fulfills all obligations under these Terms and Conditions as a Service contract in the meaning of § 611 BGB.

#### 1.3 Place of Perform

The general work location for the project will at all times be Company's business premises.

### § 2 Staff

#### 2.1 Designation

The designation of staff is based on the state of knowledge and the stage of planning at the time the respective Service Agreement is issued and will be agreed individually. Should staff replacement be required, the Company will make sure that the replacement staff will have comparable qualifications.



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## 2.2 Instructions

The naming of staff is confidential and does not result in the supply of temporary staff (*Arbeitnehmerüberlassung*). The staff deployed is not bound by the Client's instructions independent of the place of delivery.

## 2.3 Assignment and Subcontracting

Company may assign all or part of any SOW without Clients consent to pre-checked subcontractors. The Agreement and any SOW will be binding to the benefit of any successor and subcontractors of Company. Company will be responsible for all acts or omissions of its subcontractors to the same extent it is responsible for its own actions or omissions under this Agreement.

## 2.4 Non Solicitation

During the term of the agreement and within 2 years after termination, Client undertakes not to entice away any employees, contractors or customers of Company or other third companies under a contract executed on behalf of Company.

## § 3 Rights of Use

### 3.1 License

Upon payment in full of the remuneration agreed, Client acquires the non-exclusive right, unlimited in time and territorial scope, to use the accompanying results of the services provided by Company for internal applications and purposes. This does not comprise the assignment of rights of use for group enterprises of Client. For the duration of this project Company assigns the mentioned rights of use subject to the entire payment.

### 3.2 Right to Process

Client grants Company the right to perform technical assessments and services on all relevant data, as provided by Client, with tools and services by Company and with third-party tools, as required to fulfill the aim of the specified project with their confidential data and source code. That includes the right to share all data, as far as necessary, with



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third parties that perform statistical code analysis or other required methods to perform a tech due diligence. Company will always use best efforts to grant read-only rights to any third-parties.

### 3.3 Data Usage Rights

Company reserves the right to pseudonymize or anonymize the data Company receives from Client in such a way that Client cannot be identified and to aggregate it with other data it receives to derive metadata based thereon and to use the information for statistical purposes. Such derivatives will be owned by Company.

### 3.4 Data Retention

Company will retain all Client data necessary for the period required to fulfil any and all statual obligations.

## § 4 Pricing and Payment

### 4.1 Pricing

The services are rendered on the conditions as set out in the Service Agreement. A day rate comprises eight hours on average. Any time worked on a day below or above this average working time will be charged on a pro rata basis at an hourly rate. Company will maintain records on the relevant status of services performed, which may be inspected by the Client at any time.

### 4.2 Payment

Unless expressly stated otherwise, all prices are quoted exclusively of the currently applicable VAT. The services provided will be invoiced immediately after completion of the respective service. Invoices are due for payment and payable without any deduction within seven (7) days after receipt.

### 4.3 Travel Expenses

If the project requires Company to work on site (travel to Client), all associated costs will be invoiced to Client. Travel expenses include Business Class flight, transfer, accommodation,



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food, covid testing and visa expenses. Due to administrative reasons, travel expenses will be charged as a flat fee. Receipts are accessible on request at any time.

## § 5 Liability

### 5.1 General Liability

Company will be liable for fraudulent intent, willful misconduct or gross negligence in accordance with the statutory provisions. Company shall only be liable for slight negligence in case of a violation of an essential obligation, the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which Client may regularly rely. In cases of a slightly negligent breach of a material duty, the liability will be limited in terms of amount to the damage typical of comparable orders of this kind foreseeable at the time the order is placed or at the latest at the time the duty is breached.

### 5.2 Inclusions

Claims for damages under the German Product Liability Act (Produkthaftungsgesetz) and for damages based on injuries affecting a person's life, body or health will remain unaffected by the above limitations of liability.

### 5.3 Data Loss

The liability for any potential loss of or damage to, data will be limited to the expenses as would have occurred with proper data backup.

### 5.4 Exclusions

Company will not be liable for any indirect or consequential damages of a Client, including any lost profit.

### 5.5 Indemnity

Client indemnifies Company against any liability based on the incorrectness, incompleteness or misleading nature of information received from Client directly or indirectly. In addition, Client shall indemnify Company against all claims for compensation by third parties and compensate Company for all damages incurred in connection with



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Companies' activities. Excluded from this are claims for compensation and damages based on a breach of duty on Companies' part. Company shall not assume any duties of clarification, verification, and notification vis-à-vis Client beyond the extent customary in the business.

## § 6 Confidentiality

### 6.1 General Duty

The parties will treat as confidential any essential and not commonly known matters regarding the respective other party. Any hardware, software, models and documents (e.g. reports, drawings, sketches, samples, etc) which the parties provide to each other may only be used for the purposes contemplated by the contract. Any reproduction or provision to third parties beyond the scope of the above is not permitted. The contractual confidentiality arrangement is limited to five years following the receipt of the confidential information.

### 6.2 Personal Data

The parties will process and use personal data of the respective other party in accordance with the provisions of data protection laws and exclusively for the contractually agreed purposes. They will in particular protect such data against access by unauthorised persons and disclose such data to third parties only with the consent of the respective other party or the persons concerned. To the extent it is required for the performance of the order that Client grants Company access to personal data, it is pointed out that the staff deployed has to be instructed on their obligations under, and are bound by the provisions of all applicable data protection laws.

### 6.3 Marketing Cooperation

The Parties agree that each Party is allowed to share the existence of the project, including all participating companies after finalization, unless it is confidential in nature or otherwise agreed in the respective applicable SOW or NDA.



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## § 7 Cooperation Duties

### 7.1 General Cooperation

Client will ensure that all cooperation services (data, interview partners and infrastructure access) required for the performance of the work/service agreed will be provided in due time, in full and free of charge for Company. All services provided by Client are a precondition for the contractual performance of work/services by Company.

### 7.2 Infrastructure

Client will ensure access by the Company to the Client's communication and data processing systems, to the extent required. The access will be given via remote access, unless agreed otherwise.

### 7.3 Termination

Company reserves the right to terminate the Services at any time if Client does not cooperate to the extent necessary for Company to perform its obligations under the individual agreement.

## § 8 General

### 8.1 Written Form

This Agreement conclusively governs the subject-matter. No ancillary agreements have been made. Any amendments and supplements to this Agreement must be made in writing. This also applies to any waiver of this requirement of written form.

### 8.2 Validity

§ 3 and § 5 of this Agreement will survive termination or expiration of this Agreement for any reason.

### 8.3 Jurisdiction, Applicable Law

The laws of the Federal Republic of Germany apply. Place of jurisdiction is the Contractor's place of business.



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#### 8.4 Severability

Should any provision of these Terms be or become void or voidable or invalid for any other reason, this will not affect the remaining provisions. In such an event, the parties agree that the void, voidable or invalid provision is replaced by a provision which comes as close as possible to the purpose pursued by the void, voidable or invalid provision and ensures a corresponding economic result. § 139 BGB does not apply.