



WeDo

Wegner Domus GmbH & Co. KG

General Terms and Conditions **for IT services and supplies as amended: March 2015**

1. Scope of application

1.1 The following General Terms and Conditions, hereafter “GTCs”, shall apply to legal relations between WeDo Wegner Domus GmbH & Co. KG (hereafter referred to as “WeDo”) and its customers. They shall also apply to any related information and consultations, as well as to the rectification of any malfunctions or disruptions.

1.2 The rights and duties of the customer and WeDo shall arise in the following order, in the first instance from the customer order accepted by WeDo, thereafter from the order confirmation, the respective price list, and the respective special terms/specification of services and the GTC. In the case of discrepancies, the provisions of the respective regulation taking precedence shall apply.

1.3 General terms and conditions of the customer which may result in the exclusion or limitation of these GTCs shall not be part of this contract. This shall also apply if WeDo does not expressly object to this.

2. Conclusion of the Contract/Amendments to the Contract

WeDo is authorised to accept the customer application for conclusion of a contract within 14 days of receipt of the customer order. The customer shall be bound by its contract offer for this period. The contract shall be concluded with the receipt of an order confirmation from WeDo by the customer, or the initial rendering of a service by WeDo. WeDo may reject the customer order without specifying a reason.

3. Right of revocation

In as far as the customer is a consumer and has concluded a contract concerning the rendering of services using remote communication

means only (distance contract), the customer shall be legally entitled to withdraw from the contract as set out below:

Right to revocation

You may revoke your contract statement in text form within 14 days without specifying a reason (e.g. in the form of a letter, fax, or e-mail). The term shall commence upon receipt of this instruction in text form, however, not prior to conclusion of the contract or prior to fulfilment of our duties to provide information in accordance with Article 246, Section 2 in conjunction with Section 1(1 and 2) of the Introductory Act to the German Civil Code (*EGBGB*) and our duties in accordance with Section 312g(1)(1) of the German Civil Code (*BGB*) in conjunction with Article 246, Section 3 of the Introductory Act to the German Civil Code (*EGBGB*). Sending the revocation in good time shall suffice to observe this revocation term. The revocation is to be sent to:

**WeDo Wegner Domus GmbH & Co. KG,
Große Bäckerstraße 11,
20095 Hamburg**

Consequences of revocation

In the event of an effective revocation, any services or goods exchanged between the parties and, if applicable, any derived benefits (e.g. interest) are to be returned. In case you are not able to return any service received at all, in part, or only in a deteriorated state, you shall be required to render us compensation of equal value. This may mean that you shall still be required to meet your contractual payment obligations for the period until revocation is effective. Obligations to reimburse payments are to be met within 30 days. The term shall commence for you upon sending the statement of revocation, and for us upon its receipt.

Special instructions

Your right to revocation shall end prematurely, if the contract has been fulfilled by both parties upon your express request, prior to you having exercised your right to revocation.

End of the right of revocation instructions

4. WeDo services

The services to be rendered by WeDo are set out by the contractual principles given in sub-paragraph 1.2 of these GTCs. The following shall additionally apply:

4.1 E-mail service:

4.1.1 WeDo shall set up an e-mail account and addresses for the customer.

4.1.2 WeDo shall render e-mail services for the customer. These services shall include receiving, saving, and transmitting e-mails directed to the customer, as well as receiving, saving, and transmitting e-mails the customer wishes to send to any designated recipients.

4.1.3 The duties of WeDo regarding the forwarding of e-mails shall be limited to the acceptance of e-mails to be sent by the customer and, presuming the recipient's address is not in the WeDo communication network, the transfer of this mail to the internet at one of the transfer points made available by WeDo. Accordingly, the service regarding e-mails directed at the customer shall entail the acceptance of e-mails at the transfer point of the provider's own communication network to the internet and the availability of the received e-mails for retrieval by the customer.

4.1.4 The maximum memory capacity available to the customer shall be **5 GB**. If this memory capacity is exceeded by an incoming e-mail, WeDo shall be entitled to send this back. The customer shall not be informed of this. If the customer requires more memory capacity, this is to be agreed on an individual basis.

4.1.5 WeDo may reject acceptance of an e-mail for sending, if the e-mail is larger than **50 MB**. For e-mails to be sent to more than **100** addressees, approval is to be sought first from WeDo.

4.1.6 WeDo shall not be obliged to check incoming and outgoing e-mails for viruses, Trojans, or the like prior to forwarding.

4.1.7 WeDo shall be entitled to delete the inbox e-mails in the accounts provided after being saved for 60 days.

4.1.8 WeDo's obligation to save inbox e-mails is otherwise limited to the term of the contractual relationship. **Upon termination of the contractual relationship, WeDo shall delete the e-mails saved for the customer without notification.**

4.2. Set-up of e-mail accounts

4.2.1 Upon the request of the customer, WeDo shall set up the users and e-mail accounts on an individual basis according to the customer requirements.

4.2.2 WeDo shall not be responsible for induction and training.

4.2.3 WeDo shall electronically inform the contact designated by the customer that the individual e-mail accounts are fully available and operational. The customer shall check completeness of the installation and configuration, and confirm full operational availability.

4.3 Services made available via the internet regarding software

4.3.1 WeDo shall provide the customer with software for utilisation via the internet as well as memory capacity on its own servers. WeDo shall provide the customer with the latest version of the software for the term of this contract via the internet. To this end, WeDo shall make the software available on a server that can be accessed by the customer via the internet.

4.3.2 WeDo shall grant the customer the non-exclusive and non-transferable right to use the software defined in this contract for the duration of its term as intended and set out by the respective current specification of services. The customer may only edit the software provided that this is covered by its intended use according to the respective current specification of services.

4.3.3 The customer may only copy the software provided that this is covered by its intended use according to the respective current specification of services. Necessary duplication includes loading the software into the RAM; however, this does not include temporary installation or storing of the software on the data storage devices (for example, hard drives) in the hardware used by the customer.

4.3.4 The customer shall not be authorised to make the software available to a third party for utilisation either for a fee or free of charge. The customer is expressly not permitted to sublease the software.

4.3.5 WeDo shall assign the customer memory capacity on a server to be individually agreed for the purpose of saving data accumulated while using the software. If the memory capacity is no longer adequate to store the data, WeDo shall inform the customer accordingly. The customer may subsequently order appropriate contingents subject to availability at WeDo. The customer shall not be authorised to assign this memory capacity to a third party for use in part or in full, for a fee or free of charge.

4.3.6 The customer shall undertake to save no content in the memory facility that by making available, publishing, and utilising may violate applicable law or agreements with third parties.

4.3.7 WeDo shall take suitable precautions to prevent data loss and unauthorised access of customer data by a third party. To this end, WeDo shall perform daily backups and install state-of-the-art firewalls. However, WeDo shall not check customer data for viruses (also see sub-paragraph 12.7).

4.3.8 The customer shall remain the sole owner of the data and, therefore, may request the return of said data in part or in full at any time, in particular after cancelling the contract. The data shall be returned as the customer requests either by transfer of data storage devices or by sending the data via a data network. There shall be no claim to a certain data format. The customer shall have no right to be provided with software suitable for use with the data.

4.4 Web hosting

4.4.1 WeDo shall render services to enable accessibility of content via the internet. In this respect, WeDo shall provide the customer with system resources on a virtual server. The customer may store content on this server to the extent of the memory capacity agreed by contract.

4.4.2 The content shall be available on the server at the internet address to be provided by the customer for retrieval via the internet. WeDo services offered for transfer of the data shall only be limited to the data communication between the transfer point of the data communication network to the internet operated and owned by WeDo and the server made available to the customer. WeDo is not able to influence the data traffic outside of its own communication network. Therefore, it shall not be responsible for the successful forwarding of information from or to the computer requesting the content.

4.4.3 The content of the memory capacity intended for the customer shall be backed up by WeDo to the extent set out by sub-paragraph 4.3.7.

4.5 Procurement of an internet domain

4.5.1 Upon the customer's request, WeDo shall procure one or more internet domains. The domains to be procured are to be stipulated beforehand in writing. WeDo shall assume no responsibility for the availability of the requested domain or the non-violation of third party rights (e.g. rights to bear a name, trademark or title) by registering the required domain to the customer. If the required domain is unavailable, or third party rights exist in this respect, WeDo shall obtain a different available domain in consultation with the customer, which is the most like the one originally requested. WeDo shall provide proposals for such

alternative domains. WeMaCo shall not be responsible for obtaining rights for domains already registered to third parties by the relevant registering body.

4.5.2 If WeDo undertakes to procure the domain, it shall register this in the name and to the account of the customer and, upon the latter's request, organise its transfer to another provider at any time. WeDo is to act in the financial interests of the customer particularly in terms of selecting the domain name and registration body, and in negotiations of terms and conditions, and is to employ its expertise for the benefit of the customer. WeDo shall keep the customer informed about the status and progress of its activities upon request.

4.5.3 All rights and rights of name to the domain shall belong to the customer.

4.6 Other IT support

Upon the customer's request, WeDo shall also provide other services above and beyond those in the IT department for a separate fee (e.g. set-up of IT at the customer's).

5. Availability

5.1 WeDo shall render the services in accordance with sub-paragraphs 4.1 to 4.3 of these GTCs with an availability rate of **98.5%**. Availability shall be calculated on the basis of the time used in the respective calendar month, minus maintenance periods, during the term of contract. WeDo shall be entitled to carry out maintenance tasks between 2.00–6.00 am for a total of **five hours** a calendar month. During maintenance, the afore-mentioned services will be unavailable.

5.2 In as far as WeDo has a service to render or make available which depends on the necessary preliminary performances of a third party (e.g. availability of transfer routes or set-up of other network operators and providers) or authorisations, WeDo shall have the obligation to do so shall be subject to these actually and duly being rendered in an appropriate quality. Liability or obligation to perform on the part of WeDo shall not apply in this respect, unless WeDo can be accused of gross negligence or intent.

5.3 In cases of force majeure, WeDo shall be released from the obligation to perform. All unforeseeable events shall be deemed cases of force majeure and those which affect fulfilment of the contract for which neither party to the contract can be held responsible. This shall include

industrial action, also in third party companies, official measures and interruption of the power supply longer than four hours.

5.4 WeDo shall always endeavour to inform the customer of cessation or restriction of services for a longer period. If the customer is dependent on uninterrupted utilisation of the contractual service or connection at all times for use of the contractual service and this has been accordingly communicated to WeDo in writing with reasons given, WeDo shall also inform the customer of any foreseeable cessation or restriction of services and their commencement in advance. This obligation to provide information shall not apply, if it is not possible to inform the customer objectively prior to commencement of the cessation or restriction of services due to the respective circumstances, or if this would delay rectification of interruptions already occurring.

5.5 WeDo shall be entitled to restrict or block services temporarily, provided that this shall be necessary for reasons of public security, interoperability of the services, data protection, or to combat spam or computer viruses/worms/Trojans, or hack/DOS attacks, etc., or to perform necessary operation-related or technical work.

5.6 WeDo shall be entitled to upgrade the hardware and software used for rendering of the services to the respective state-of-the-art. If as a result of such a modification additional requirements regarding the content stored on the server by the customer are to be met in order for WeDo to ensure rendering of the services, WeDo shall inform the customer of these additional requirements. Immediately upon receipt of the notification, the customer shall decide whether to meet these additional requirements and by when this is to take place. If the customer fails to declare no later than four weeks prior to the changeover date that the said content will be duly adapted to the additional requirements for the changeover, i.e. no later than three workdays prior to the changeover date, WeDo shall have the right to terminate the contractual relationship effectively as of the changeover date.

6. Remuneration

6.1 Remuneration for the services rendered by WeDo shall be governed by the price list valid at the time of the conclusion of the contract.

6.2 The customer shall be entitled to raise objections to the invoice for services rendered by WeDo in writing to the specified body within eight weeks of receipt of the invoice. Upon expiry of the afore-mentioned term, the invoice shall be deemed approved by the customer. WeDo shall

specifically indicate the significance of the customer's conduct in particular upon sending the invoice.

6.3 WeDo shall have the right to amend the price list applicable to its services. WeDo shall inform the customer of any amendments to the price list in text form no later than six weeks prior to these going into effect. If the customer disagrees with any amendment to the price list, the customer shall have the right to terminate the contractual relationship in exceptional cases on the date the price list amendment takes effect. Notice of cancellation is to be given in text form. If the customer does not terminate the contractual relationship by the date the price change goes into effect, this shall be deemed as approved by the customer. WeDo shall specifically indicate the significance of the customer's conduct upon providing notification of the price change.

6.4 Rendering of the services by WeDo is determined by the customer fulfilling payment obligations on time. If the customer defaults on payment of a not insignificant part of the fee for a month by more than 21 days, WeDo shall be provisionally entitled to retain or block the services required by contract.

7. Contractual term

7.1 This contract shall be valid for an unlimited period and may be terminated in writing after a year at any time with a notice period of 30 days to the end of a calendar quarter.

7.2 Upon termination of this contractual relationship, WeDo shall provide the customer with the content stored in the memory it has provided specifically for this purpose on a data storage device or make it available for retrieval by remote data transfer. Any rights of retention on the part of WeDo shall remain unaffected.

7.3 The right of both parties to terminate the contract without notice for good cause shall remain unaffected. WeDo shall particularly deem it a good cause if the customer

a) defaults on payment of the fee or a not insignificant part of the fee for two consecutive payment dates, or defaults on payment of a fee equivalent to that of two months in a period which goes beyond two payment dates;

or

b) despite an official warning the customer becomes liable for a major breach of contract, especially the infringement of duties set out by sub-paragraph 12 of these GTCs.

7.4 Every notice of termination shall be required in writing in order to be valid; this shall also apply when sent by fax.

8. Liability for defects

8.1 If WeDo renders the services set out by this contract in a faulty manner, the customer shall be entitled to demand subsequent performance.

8.2 If subsequent performance is not possible, for example, because the service cannot be repeated, or it fails, the customer shall be entitled to demand compensation or reimbursement of any wasted expenditure, and reduction of the fee; furthermore, if it would be unreasonable to expect the customer to continue the contractual relationship until expiry of the notice period for termination in consideration of all circumstances of the case and the interests of both parties, the customer shall have the right to terminate the contract for good cause without observing a notice period. WeDo is to be granted at least two attempts at a subsequent performance.

8.3 In the case of defects in existence at the time of assigning memory capacity to the customer, WeDo shall only be liable if it is responsible for them.

8.4 The customer is to indicate any defects to WeDo immediately. Any claims for defects shall be subject to a period of limitation of 12 months. Commencement of the period of limitation is governed by statutory provisions.

9. Liability

9.1 WeDo liability for damage due to utilisation of public telecommunication services shall be governed by the regulations of the German Telecommunications Act.

9.2 Outside of the scope of sub-paragraph 9.1, liability shall be governed by the following provisions:

9.2.1 WeDo's contractual and non-contractual liability for compensation or reimbursement of wasted expenditure, regardless of the legal basis,

including liability for negligence at the conclusion of the contract, shall be limited to damages caused by the intent, gross negligence or violation of material contractual obligations (cardinal duties) by WeDo or its vicarious agents. Cardinal duties are those which when fulfilled ultimately facilitate proper performance of the contract and the observance of which the customer may normally rely upon. When cardinal duties are violated in cases of slight negligence, WeDo's liability shall be limited to foreseeable damages which are typically expected to occur on account of the circumstances known at the conclusion of the contract; in this case, liability in individual cases shall be limited to 25,000.00 EUR. In the remaining cases of slight negligence, WeDO shall not be held liable.

9.2.2 In as far as WeDo shall be liable for the loss of data and/or programs, the customer may not demand compensation for those damages, especially restoration costs, which have been incurred by the customer failing to perform data backup usual in this line of business thus ensuring that any lost data can be restored at a reasonable expense.

9.2.3 WeDo shall be unrestrictedly liable for damages to life and limb and in accordance with the German Product Liability Act and liability arising from provided warranties; this shall remain unaffected by these limitations of liability.

9.2.4 WeDo shall not be liable in the case of disruptions outside of its scope of influence (e.g. line overload, or failure of telecommunication connections).

9.2.5 These disclaimers and limitations shall also apply in favour of the employees and vicarious agents of WeDo and other third party working on behalf of WeDo to fulfil the contract.

10. Amendment to the terms of contract

Unless specifically agreed otherwise, WeDo shall be entitled to amend or supplement these GTCs as follows:

WeDo shall inform the customer of any amendments or supplements in text form no later than six weeks prior to these going into effect. If the customer disagrees with the amendments or supplements to the terms of contract, this party may object to the amendments up to a week before the amendments or supplements are due to take effect.

The objection is required in writing. If the customer does not object to the amendments or supplements to the terms of contract, they shall be deemed approved. WeDo shall specifically indicate the significance of

the customer's conduct upon providing notification of the amendments or supplements to the terms of contract.

11. Supplementary terms for the sale of goods

11.1 Retention of title; third party enforcement

The goods sold by WeDo shall remain its property until full payment of the purchase price. If creditors of the customer levy execution against the sold goods, the customer is to inform WeDo immediately. In this case, the customer is to release WeDo from all costs incurred by the third party claim with respect of the property rights of the creditor levying execution, if these are necessary and appropriate and are not to be reimbursed by the latter.

11.2 Delivery dates

Delivery dates shall only be binding if they have been expressly acknowledged as such by WeDo in writing or text form. Binding delivery dates shall be extended due to unforeseeable circumstances and impediments for which WeDo is not accountable, in particular, force majeure, non-granting of official permits, industrial disputes, sabotage, delayed delivery of materials or preliminary products, also if such events occur at sub-suppliers or third party companies.

11.3. Warranty for the sale of goods

11.3.1 Unless provided for otherwise, the warranty claims of the customer due to defects in the goods shall be governed by statutory provisions.

11.3.2 In as far as the customer is not a consumer, in that he or she is not a natural person or acts within the bounds of business or self-employment, WeDo shall have the right, in the event of defective goods, to refer the customer to the assertion of subsequent performance rights which WeDo is entitled to exercise against a sub-supplier or any other third party commissioned with delivery of the goods. In this respect, the customer of WeDo shall be entitled to exercise his or her rights to subsequent performance by the third party due to the defective goods. If the customer's assertion of his or her claims to subsequent performance from a third party fails despite the reasonable pursuit of these, the customer shall have the right to assert warranty rights against WeDo to the extent of statutory provisions.

11.3.3 In the case of customers who are not consumers, the term for claims due to defects in sold goods shall be limited to a year. Commencement of the period of limitation is governed by statutory provisions.

11.3.4 The customer's claim for compensation due to defective goods shall be limited to the scope of sub-paragraph 9 of these GTCs.

12. Customer obligations

12.1 The customer may only use the rendered services to the extent set out by the contract and that of the respective applicable statutory provisions.

12.2 In particular, the customer may not distribute any offensive, defamatory, racist, pornographic, inappropriate or unlawful content via the WeDo server and/or internet, or abet distribution or provision of content of this kind for third party retrieval. In terms of utilisation, the customer is also specifically to respect copyright, data protection, and competition law. The customer is to ensure that none of his or her terminal devices will cause disruptions to the WeDo server.

12.3 Sending of spam mails via the WeDo server is not permitted. This particularly includes the sending of non-permitted, unsolicited advertising to third parties. When sending mails, it is not permitted to give false sender information or to conceal the identity of the sender in any way. The customer shall be obliged to make the business nature clear in commercial correspondence by using an appropriate design or layout.

12.4 The customer must not transfer the services provided by WeDo to a third party for commercial or private use.

12.5 The customer asserts that any information conveyed to WeDo is accurate and complete. The customer shall undertake to inform WeDo immediately of any changes to the conveyed information and upon corresponding request by WeDo reconfirm its current accuracy within five days of receipt.

12.6 The customer shall be obliged to keep any passwords provided by WeDo for access to its services strictly confidential and to inform WeDo immediately upon learning that unauthorised third parties have gained knowledge of the password. If due to the customer's negligence a third party misuses the passwords to utilise the services of WeDo, the customer shall be liable to pay WeDo a utilisation fee and compensation.

12.7 The customer shall be referred to the fact that he or she is responsible for backing up any database on any workday that he or she or vicarious agents or assistants may have made any changes to it; however, data stored on the WeDo servers must not be backed up on these. The customer is to run a complete backup especially prior to commencement of work by WeDo in each case or the installation of supplied hardware or software. Sub-paragraph 4.3.7. shall apply in other instances.

12.8 The customer is to test every program thoroughly to make sure it is free of errors and is suitable for use in his or her specific situation before commencing operation of the program. This shall also apply to programs provided by WeDo within the scope of warranty and maintenance. The customer shall be expressly referred to the fact that even slight modifications to the software may affect the whole system's ability to operate.

12.9 The customer shall be obliged to create suitable backups of his or her own data hosted by WeDo independently at regular intervals.

12.10 Content stored in the memory capacity assigned specifically to the customer may be protected by copyright and data protection law. The customer shall grant WeDo the right to access the content stored by him or her on the server which is requested via the internet, in particular, to reproduce and transmit this for this purpose and to reproduce this for the purpose of data backup. The customer shall be responsible for checking whether his or her use of personal data meets data protection requirements.

13. Data utilisation

13.1 WeDo shall collect and process data within the scope of legal data protection regulations.

13.2 If this is necessary for invoicing, WeDo may save and transfer traffic data and/or accounting data. WeDo will delete traffic data no later than six months after sending the invoice, if the customer has not raised any objections to the amount invoiced for connection charges before the term has expired. In such a case, the traffic data may be saved until the objections have been finally settled.

13.3 The customer shall have the right to request the traffic data is completely saved or completely deleted once the invoice has been sent. The traffic data cannot be saved after the invoice has been sent if the

customer has already made use of the right to complete deletion of the data.

13.4 If for technical reasons or the customer has requested that no traffic data is saved, or saved traffic data is deleted upon customer request or due to legal obligations, WeDo shall have no duty to provide a record of individual connections. The customer shall be referred to this legal consequence in a clear manner on the invoice. If the data is not saved for technical reasons, the customer shall be informed of this limited ability for connections prior to being sent the invoice.

14. Set-off, right of retention, and right to transfer

14.1 The customer may offset against receivables from WeDo only with those receivables which are deemed legitimate, undisputed or accepted by WeDo.

14.2 In terms of receivables from WeDo, the customer may only assert a right of retention on account of claims and rights substantiated by the same contractual relationship.

14.3 The customer is only entitled to transfer due claims and rights against WeDo with the latter's written consent. WeDo must not unreasonably withhold consent. The regulation of Section 354a of the German Commercial Code (HGB) shall remain unaffected.

15. Final clause

15.1 All amendments, supplements and notices of termination of contractual agreements shall be required in writing in order to be valid, unless this contract stipulates the text form. Amendments or supplements to this contract shall be required in writing. Implicit agreements to revoke the written requirement shall be void. The validity of individual verbal contractual agreements shall remain unaffected.

15.2 Should individual provisions of the agreements between the parties be or become invalid in full or in part, the validity of the remaining provisions shall remain unaffected. In this case, the parties shall be obliged to replace the invalid provision with a valid one which best reflects the economic purpose of the invalid provision. The same shall apply to any loopholes in these agreements.

15.3 The exclusive place of jurisdiction for all disputes arising from or in connection with this contract shall be Hamburg, provided that the

customer is a merchant, or a legal entity or special fund under public law.

15.4 The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on the International Sale of Goods (CISG) in terms of the creation of a contract between the customer and WeDo and all claims and rights arising from this contract and its execution.