

SweepMe! GmbH Standard Business Terms

(Last revised: 05/2021)

I. General terms and conditions

Section 1 Scope

(1) Unless provided otherwise in an individual contract, SweepMe! GmbH, Bienertstraße 18, 01187 Dresden (hereinafter referred to as “SweepMe! GmbH”) supplies its goods and services in dealings with entrepreneurs, legal entities under public law or special funds under public law exclusively on the basis of these Standard Business Terms. To the extent that the supplies of goods and services are referred to below, this is understood to comprise all supplies of goods and services of any type from SweepMe! GmbH to the customer.

(2) SweepMe! GmbH does not provide services to consumers in within the meaning of section 13 of the German Civil Code (Bürgerliches Gesetzbuch - “BGB”). With regard to the services referred to in paragraph (1), these Standard Business Terms also apply to all pre-contractual obligations as well as future contracts even if they are not expressly agreed again. In the case of future contracts, these Standard Business Terms will not apply, but rather a new version of the Standard Business Terms will apply provided that SweepMe! GmbH has informed the customer of the new version and of a convenient method of reviewing its contents prior to or no later than upon conclusion of the contract.

(3) The customer must provide written notice to SweepMe! GmbH prior to or upon conclusion of the contract in the event that the customer objects to the application of the new Standard Business Terms. Any different (purchasing) terms and conditions of the customer or any third party are rejected. Accordingly, the standard business terms of the customer or any third party do not apply even if SweepMe! GmbH does not separately object to their application in a specific case or if SweepMe! GmbH refers to correspondence that includes or refers to the standard business terms of the customer or a third party.

Section 2 Definitions

For the purposes of these Standard Business Terms, the following terms have the meanings described below:

1. *Business days.* Monday to Friday with the exception of public holidays in Saxony as well as 24 December and 31 December;
2. *Order.* A binding offer from the customer to conclude a contract;

3. *Individual contract.* The contract concluded in a specific case within the scope of these Standard Business Terms;
4. *Free license.* A royalty-free user license that permits the use, redistribution and modification of copyrighted works under certain conditions specified in the licensing terms (e.g., for open source software under the BSD license or LGPL license or for images under the Creative Commons License);
5. *Custom software.* A computer program to be created by SweepMe! GmbH according to the customer's specifications, irrespective of its form (e.g., add-on modules and device classes), which may also consist of the modification or extension of another computer program, including any documentation required to be provided;
6. *Work product.* The product created by SweepMe! GmbH, i.e., *custom software* created by SweepMe! GmbH;
7. *Deliverable.* The product to be created by SweepMe! GmbH, i.e., *custom software* to be created by SweepMe! GmbH;
8. *Software.* The generic term for *standard software* and *custom software*;
9. *Standard software.* A computer program in whatever form (e.g., add-on modules and device classes) that has been developed for the needs of a majority of customers on the market and not specifically by SweepMe! GmbH for the customer and includes any documentation to be provided;
10. *Normal business hours.* 9 a.m. to 5 p.m. on *business days*.

Section 3 Individual contract

An *individual contract*, and thus a contractual obligation for specific services, is concluded by means of an order confirmation from SweepMe! GmbH, by conclusive action, especially if SweepMe! GmbH commences contractual performance following an *order* or if the customer accepts a binding offer from SweepMe! GmbH. Product and service descriptions from SweepMe! GmbH do not constitute binding offers. The customer is bound by an *order* for fourteen (14) days.

Section 4 Supplies of goods and services by SweepMe! GmbH

(1) The specific scope of performance owed by SweepMe! GmbH is specified in the *individual contract* subject to any and all agreed contract amendments and supplements.

(2) SweepMe! GmbH is entitled to make minor changes to the agreed scope of performance provided that they do not impair the quality of the respective good or service and are reasonably acceptable to the customer.

(3) Product descriptions, illustrations, test programs, etc. are performance specifications and do not comprise a quality guarantee. Guarantees must be in writing to be effective. They may only be effectively provided by a managing director or authorised officer of SweepMe! GmbH. Other SweepMe! GmbH employees are not authorised to provide guarantees.

(4) As long as supplies of goods and services by SweepMe! GmbH are free of charge to the customer, such supplies by SweepMe! GmbH are purely voluntary and the customer has no claim against SweepMe! GmbH for continuation of the respective supply. SweepMe! GmbH reserves the right to discontinue its complementary supplies of goods and services at any time without prior notice. In this respect, the customer likewise has no right to receive updates.

(5) SweepMe! GmbH may also provide its services through third parties.

(6) All employees employed by SweepMe! GmbH at or for the customer shall remain organisationally tied to SweepMe! GmbH, irrespective of whether they are deployed at the customer's for a longer period of time. SweepMe! GmbH is exclusively authorised to give instructions to its employees. Any instructions by the customer shall only be regarded as suggestions and shall only be binding if SweepMe! GmbH accepts such suggestions and issues them to its employees as binding instructions. The customer must send suggestions regarding services to be provided exclusively to the relevant contact person named by SweepMe! GmbH and/or their alternate (Art. V, Section 42). Persons used by SweepMe! GmbH do not enter into an employment relationship with the customer, even if they provide services on the customer's premises.

Section 5 Place of performance by SweepMe! GmbH

Subject to any agreement to the contrary in the *individual contract*, SweepMe! GmbH will provide all services at the SweepMe! GmbH head office. In the event that access to the customer's systems is required in order to render services, this shall generally be performed by way of remote maintenance.

Section 6 Remuneration; Ancillary costs

(1) Prices are specified in the *individual contract* concerned including any and all agreed contract amendments and supplements. In the absence of an *individual contract*, prices are based on the current price list in effect at the time an agreement for the provision of goods and services is reached. This list may be requested from SweepMe! GmbH at any time.

(2) If the Parties have specified daily rates or person days within the context of remuneration on a time and materials basis, SweepMe! GmbH, such obligations is limited to a maximum of eight person hours per calendar day. If SweepMe! GmbH provides additional person hours on a calendar day, such hours are to be additionally remunerated pro rata temporis, unless such excess hours conflict with an identifiable wish of the customer or its objective interests. If hourly rates are agreed, they will be remunerated per 15 minutes or part thereof.

(3) The prices indicated are subject to the costs of insurance, packaging and shipment and, in the case of international supplies of goods and services, any potential taxes, levies and customs duties, incidental costs of monetary transactions any the respectively applicable value added tax.

(4) Unless otherwise agreed, the customer shall bear all documented out-of-pocket expenses, such as travel and accommodation expenses, meals and third-party claims for remuneration incurred in the course of the performance of the contract. Travel time is to be compensated.

(5) The customer is required to pay customary remuneration for any supply of goods or services by SweepMe! GmbH for which the Parties have not reached agreement concerning remuneration in cases where the customer should expect to make payment for such goods and services based on the circumstances. In case of doubt, the prices requested by SweepMe! GmbH for its services are deemed to be customary prices.

(6) Costs resulting from subsequent changes to the scope of performance initiated by the customer will be invoiced separately.

Section 7 Payment and default

(1) Unless agreed otherwise, invoices from SweepMe! GmbH are due for payment without deduction one (1) week after receipt of the invoice. Invoices may be issued immediately in the case of permitted partial deliveries. Invoices are issued electronically.

(2) If payment in advance has been agreed, SweepMe! GmbH will only perform after receipt of payment.

(3) If the customer does not pay on the due date, all outstanding amounts shall bear interest at 5 % p.a. from the due date. This is without prejudice to the right to claim a higher interest rate and to assert further damages in the event of default.

(4) If the customer is in default, it will be charged interest at the statutory rate from the relevant date. SweepMe! GmbH reserves the right to claim higher damages incurred as a result of a default. This is without prejudice to all other rights of SweepMe! GmbH; this applies in particular to the rights of SweepMe! GmbH to refuse performance under sections 273 and 320 of the German Civil Code and SweepMe! GmbH's right to terminate the contract for good cause.

(5) Any conflicting terms and conditions of the customer notwithstanding, SweepMe! GmbH is entitled to apply payment first to the customer's older obligations and will inform the customer of how payments have been applied. If costs or interest have already been incurred, SweepMe! GmbH is entitled to apply payments first to costs, then to interest and finally to the principal obligation.

(6) A payment is only considered to have been made once SweepMe! GmbH can dispose of the funds.

(7) SweepMe! GmbH is entitled to accelerate the due date for all remaining amounts outstanding if SweepMe! GmbH becomes aware of circumstances that objectively call the customer's creditworthiness into doubt, in particular if the customer suspends payments or if a direct debit is returned due to lack of sufficient funds. In such cases, SweepMe! GmbH is also entitled to demand advance payments or the provision of security.

(8) SweepMe! GmbH is entitled, subject to applicable statutory conditions, to demand payments on account for the value supplies of goods and services actually provided by SweepMe! GmbH and owed under the contract.

Section 8 Dates; Deadlines and obstacles to performance

(1) Delivery and performance dates or periods can be agreed upon as binding or non-binding. They must be stated in writing if intended to be binding. The schedule for services to be provided may be specified in the *individual contract*.

(2) SweepMe! GmbH is not liable for any impossibility of performance or delays in performance due to force majeure or other events not foreseeable at the time the contract was concluded, including without limitation operational disruptions of any kind, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, delays in the grant of permits, confirmations or similar requirements, including without limitation issues related to foreign trade law, official orders or missing, incorrect or untimely delivery by suppliers, even if they occur at SweepMe! GmbH's suppliers or their subcontractors, or problems with third party products for which SweepMe! GmbH is not responsible. SweepMe! GmbH will inform the customer of any such circumstances without undue delay.

(3) If events for which SweepMe! GmbH is not responsible within the meaning of paragraph (2) render performance by SweepMe! GmbH significantly more difficult or impossible, or the impediment and the hindrance are not temporary in nature, SweepMe! GmbH is entitled to release itself from the obligation to fulfil the contract. Any consideration already paid for parts of the contract that will not be fulfilled will be refunded by SweepMe! GmbH without undue delay. If any such events lead to hindrances that are only temporary in nature, the respective delivery or performance deadlines shall be extended or the delivery or performance dates shall be postponed for the duration of the hindrance plus a reasonable lead time. SweepMe! GmbH will inform the customer of the expected new dates and/or deadlines without undue delay. If the hindrance lasts longer than two months, the customer is entitled to terminate the respective *individual contract* with regard to any parts that remain unfulfilled after setting a reasonable grace period with notice of intent to reject performance. This is without prejudice to any additional legal rights of the customer. Similarly, this is without prejudice to existing provisions of law related to the exclusion of the obligation to perform due to impossibility under section 275 of the German Civil Code for the benefit of SweepMe! GmbH.

(4) Paragraph (3), second sentence applies accordingly if the customer fails to comply with a duty of cooperation in breach of the contract, for example does not provide notice, does not provide access, does not provide materials or does not make employees available or if the customer is in default of payment. However, in such cases the customer has no right of revocation or termination.

(5) The relevant deadlines will be extended by a reasonable period if the parties subsequently agree on other or additional services which affect agreed deadlines.

Section 9 Requirement for the customer to provide notice and set a grace period

(1) The termination of further contractual exchanges as a result of disruptions in performance (e.g., in the case of contract withdrawal, termination for good cause, compensation for damages in lieu of performance, as well as a reduction in the agreed remuneration by the customer, must always be preceded by notification from the customer indicating the grounds and setting a reasonable grace period for cure. Termination or reduction, as applicable, may be effective upon expiry of the grace period. No deadline is required in cases to which section 323 (2) of the German Civil Code applies.

(2) All declarations by the customer in this context, in particular notifications and the setting of any grace periods, must be in writing in order to be effective. All grace periods must be reasonable. Any deadlines set by the customer of less than two weeks are only reasonable in cases of special urgency.

Section 10 Set-off; Retention and assignment

(1) The customer is only entitled to a right of set-off and retention if the counter-claims that have fallen due have been finally determined by a court, are undisputed or are ripe for judgement. However, the customer is also entitled to exercise a right of set-off absent satisfaction of the additional requirements set out in the first sentence of this paragraph

- a) If it intends to set-off a claim of SweepMe! GmbH that is reciprocal to the customer's claim (e.g., set-off a claim for compensation for damages based on non-performance or default against a claim for payment of remuneration owed),
- b) And is also entitled to exercise a right of retention if the right of retention is exercised in relation to counter-claims based on the same contractual relationship.

(2) Except within the scope of section 354a of the German Commercial Code, the customer may only assign its claims in relation to SweepMe! GmbH with SweepMe! GmbH's prior written consent.

Section 11 Supplies by the customer; *Free licenses*

(1) If the customer supplies materials (e.g., texts, graphics, pictures, videos, third-party programs including *free licenses*), the use of which could conflict with the rights of third parties (e.g., copyrights and industrial property rights, right to one's own image), the customer is obliged to clarify and obtain relevant rights in advance to the extent required to achieve the purpose of the contract. Without limitation, the customer must check whether the customer has the necessary rights to use such items within the scope of the contract both itself, and in relation to performance of the contract by SweepMe! GmbH, prior to each supply of materials described in the first sentence of this paragraph. Upon request, the customer will provide proof of sufficient ownership or acquisition of relevant rights to SweepMe! GmbH without undue delay.

(2) In relation to the customer, SweepMe! GmbH is not obligated to verify whether the customer has acquired sufficient rights.

(3) The customer will compensate SweepMe! GmbH for any damages resulting from claims asserted by third parties based on the infringement of industrial property rights and other rights, unless the customer is not responsible for such damage. The customer shall indemnify SweepMe! GmbH with regard to all detriment incurred by SweepMe! GmbH as a result of claims made by third parties related to injurious acts of the customer for which the customer is responsible.

(4) To the extent this facilitates performance of the contract, SweepMe! GmbH may, on behalf of the customer, copy suitable materials from publicly available sources that are under a *free*

license and make them available to the customer. This requires no separate authorisation by the customer. At any time upon request, SweepMe! GmbH will inform the customer of which materials subject to a *free license* have been used by SweepMe! GmbH or are intended for use in future. Paragraphs (1) to (3) apply accordingly, but only to the extent and only from the point in time at which SweepMe! GmbH has informed the customer of the use of respective materials subject to a *free license* and the customer has had sufficient opportunity to examine the clarification of the relevant rights.

Section 12 Customer change requests

(1) If the customer wishes to change the contractually determined scope of the services to be provided by SweepMe! GmbH, the customer must submit a written change request to SweepMe! GmbH. The balance of the process is to be governed by the following provisions. SweepMe! GmbH may dispense with the procedure described in paragraphs (2) to (6), and carry out the services directly, in the case of change requests that may be quickly examined and likely implemented within eight (8) person-hours. The customer is entitled to withdraw its change request at any time which concludes the current change request procedure.

(2) SweepMe! GmbH will examine what effects the desired change will have, in particular with regard to remuneration and deadlines. If SweepMe! GmbH recognizes that services currently to be performed cannot be performed, or may only be performed with a delay, due to such examination, SweepMe! GmbH will inform the customer accordingly and inform the customer that the change request may only be examined if the relevant services are postponed for an, initially, indeterminate period. SweepMe! GmbH will carry out the examination of the change request if the customer agrees to such a postponement.

(3) After examining the change request, SweepMe! GmbH will explain the effects of the change request on current agreements to the customer. Such explanation will contain either a detailed proposal for the implementation of the change request or information on why the change request cannot be implemented.

(4) The Parties will consult each other concerning the content of a proposal for the implementation of the change request without undue delay and record the results in text form at a minimum.

(5) The original scope of services will remain in effect if no agreement is reached or if the change request procedure ends for any other reason. The same applies in the event that the customer does not agree to a postponement of the services for the further performance of the examination described in paragraph (2).

(6) Dates affected by the change request procedure will be postponed under consideration of the duration of the examination, the duration of consultation on the change request proposal

and, where appropriate, the duration of the change requests to be executed, plus a reasonable start-up period where necessary. SweepMe! GmbH will inform the customer of the new dates.

(7) The customer bears any expenses incurred as a result of the change request. Without limitation, this includes examination of the change request, preparation of a change request proposal and any downtime. The expenses will be calculated according to the prices stated in the *individual contract* and, if not available, based on SweepMe! GmbH's current price list.

Section 13 Proposed changes by SweepMe! GmbH

SweepMe! GmbH may, for its part, submit proposals to the customer for changes to supplies of goods and services, the schedule and the previously-agreed remuneration. Section 12 (3) to (6) shall apply *mutatis mutandis*.

Section 14 General ancillary and cooperation obligations for the customer

(1) The customer must support SweepMe! GmbH in the performance of the contract to an appropriate extent.

(2) In particular, the customer shall

- a) Ensure that all preconditions within its sphere of operations are satisfied to the extent necessary for contractual performance by SweepMe! GmbH. This includes, for example, access to the necessary rooms, systems and documentation as well as the availability of the relevant technical contact persons by telephone. The customer must provide SweepMe! GmbH detailed information concerning any circumstances that must be considered when SweepMe! GmbH is performing work on the customer's premises and systems;
- b) Provide SweepMe! GmbH all necessary information and documents without undue delay upon request by SweepMe! GmbH and voluntarily as soon as their possible relevance has become apparent to the customer; this applies in particular to hardware, programs, interfaces and databases, insofar as these items originate within the customer's sphere of control or responsibility and may be relevant for the performance of the contractual services.

(3) Unless otherwise agreed in an *individual contract*, in particular if a contract for hosting or software as a service does not include these obligations, the customer must provide the necessary hardware and software infrastructure and take the necessary precautions to prevent unauthorised access to its systems from external sources, loss of data and infection with and distribution of malware (e.g., by means of firewalls, penetration tests, data backup and in

particular appropriate back-up routines in accordance with the respective state of the art for both data and programs, fault diagnosis, regular testing of the results, contingency planning).

(4) The customer is obliged to take suitable precautions to protect any *software* provided to it by SweepMe! GmbH from unauthorised third-party access. The customer shall, in particular, securely store access data and user documentation for such purposes. In addition, the customer will clearly instruct its employees and vicarious agents who use the *software* in accordance with the provisions of the *individual contract* to comply with these contractual conditions and the provisions of copyright law.

(5) The customer shall

a) Provide complete and truthful information for required registrations and other queries necessary to achieve the purpose of the contract;

b) To the extent required at the time of registration, choose a user name that may neither infringes the rights of third parties nor any other rights to a name or trademark nor offends common decency;

c) Keep passwords secret and not disclose them to third parties under any circumstances; the customer must inform SweepMe! GmbH without undue delay if there are indications that their access is being or has been misused by third parties;

d) Inform SweepMe! GmbH of any subsequent changes to queried data without undue delay;

Paragraph (4), second sentence applies to registrations and the use of user accounts *mutatis mutandis*.

(6) The customer undertakes to inform SweepMe! GmbH if there is a change in personnel, address, name, legal form or company without undue delay.

(7) All obligations of the customer to cooperate are primary obligations. The customer shall cooperate at its own expense.

Section 15 Industrial property rights

(1) As between the Parties, all copyrights, patent rights, trademark rights and all other industrial property rights to all objects which SweepMe! GmbH makes available or makes accessible to the customer within the scope of the contract initiation and performance shall be the exclusive property of SweepMe! GmbH.

(2) SweepMe! GmbH will have corresponding rights of use in the event that third parties possess property rights in such items or they are under a *free licence*; in such cases, the applicable licensing terms shall have priority over these terms and conditions.

(3) In the event that SweepMe! GmbH has attached references to its authorship, to other proprietary rights including the proprietary rights of third parties, to terms of use and licensing conditions as well as to safety and warning notices, disclaimers and limitations of liability, trademarks and logos to such items, in the case of *software* within the source code in particular, as well as on the user interface, the customer may not remove, falsify or otherwise alter these references without the consent of SweepMe! GmbH; SweepMe! GmbH will not refuse consent if there is good cause for any such modification.

(4) SweepMe! GmbH reserves ownership or copyright in and to all offers and cost estimates submitted by SweepMe! GmbH as well as drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and aids made available to the customer. The customer may not share any of the foregoing, as such or their content, with third parties, disclose them, use them itself or via third parties, or reproduce them, without the express consent of SweepMe! GmbH. Upon request of SweepMe! GmbH, the customer must return such items in full to SweepMe! GmbH and destroy any copies that may have been made if they are no longer required by it in the ordinary course of the customer's business or if negotiations do not lead to the conclusion of a contract.

Section 16 Contract term and termination for individual contracts

(1) The start and end of any individual contracts is specified in the *individual contract* concerned.

(2) In the event that a minimum term is specified in the *individual contract*, such *individual contract* may first be terminated by giving three months' notice to the end of the agreed minimum term. After expiry of the minimum term, the *individual contract* will be renewed for a further year in each case as long as it is not terminated within the period specified in the first sentence.

(3) Where an *individual contract* specifies a fixed term or a fixed termination date, such *individual contract* will terminate on that date. The Parties should therefore hold talks on whether and how to extend the contract concerned on a timely basis.

(4) An *individual contract* that establishes a continuing obligation and does not contain any information on the term of the contract may be terminated by giving three months' notice to the end of a calendar month.

(5) This is without prejudice to the right to terminate the contract for good cause. Without limitation, good cause for termination by SweepMe! GmbH includes:

- a) A breach of a primary contractual obligation in an *individual contract* or of an essential contractual obligation in an *individual contract* by the customer;
- b) Should there be indications supporting legitimate doubts as to the financial standing of the customer;
- c) A significant direct or indirect (e.g., through contractual agreements, control agreements, trust agreements) change in the customer's ownership ("change of control"). For sake of clarity, the mere appointment of an insolvency administrator does not constitute a change of control. In any case, the customer must notify SweepMe! GmbH of any changes without undue delay;
- d) The unsuccessful expiry of a reasonable grace period set for payment in the event of default in payment by the customer;
- e) The violation of employee protection according to Section 19 of these Standard Business Terms;
- f) A breach of the obligation to maintain confidentiality and data protection pursuant to Section 21 of these Standard Business Terms;
- g) Any other significant breach of obligations arising under these Standard Business Terms.

(6) In all other cases, notice of termination must be provided in writing.

Section 17 Liability on the part of SweepMe! GmbH

(1) SweepMe! GmbH's liability for damages, regardless of legal grounds (e.g. impossibility, delay, defective or incorrect delivery or performance, breach of contract or in tort), is limited in accordance with this Section 17 ("Liability on the part of SweepMe! GmbH") to the extent that liability requires fault on the part of SweepMe! GmbH.

(2) SweepMe! GmbH has no liability in cases of simple negligence provided that there has been no breach of a material contractual duty the fulfilment of which is essential to the proper performance of the contract, the observance of which the customer is entitled to rely upon and the non-fulfilment of which endangers achievement of the purpose of the contract ("essential obligation"). In the event of a breach of such an essential contractual obligation, in cases of simple negligence, liability on the part of SweepMe! GmbH shall be limited to damages that

are typical to the contract and that were foreseeable at the time of conclusion of the contract. However, in cases of simple negligence, liability on the part of SweepMe! GmbH shall be limited to the amount of the *individual contract* at most.

(3) In cases involving gross negligence, liability on the part of SweepMe! GmbH is limited to damages that are typical to the contract and foreseeable at the time the contract was concluded.

(4) The foregoing exclusions and limitations on liability set out in paragraphs (2) and (3) apply to the same extent, even retroactively, to breaches of duties during contract negotiations.

(5) In the event that SweepMe! GmbH is not itself obliged to perform data backups, typical damages foreseeable at the time of conclusion of the contract shall correspond to typical recovery costs in the event of data loss. Typical recovery costs shall be calculated on the basis of the damage that would have occurred if the customer had taken reasonable precautionary measures based on the standard of care applicable to a prudent businessman.

(6) SweepMe! GmbH's liability is entirely excluded in cases of simple negligence involving a breach of an obligation by SweepMe! GmbH concerning supplies of goods and services provided to the customer by SweepMe! GmbH voluntarily and free of charge (e.g., as a gift, loan, gratuitous agency and courtesies). In cases where SweepMe! GmbH provides technical information or acts in an advisory capacity following conclusion of the contract and such information or advice is not part of the contractually agreed scope of services owed by SweepMe! GmbH, this is done gratuitously and subject to the exclusion of any and all liability for incorrect information or advice provided negligently.

(7) The exclusions and limitations on liability set out in this Section 17 ("Liability on the part of SweepMe! GmbH") apply to claims for reimbursement of futile expenses *mutatis mutandis*.

(8) The exclusions and limitations on liability set out in this Section 17 ("Liability on the part of SweepMe! GmbH") apply to the same extent for the benefit of the executive bodies, legal representatives, employees and other agents of SweepMe! GmbH.

(9) The limitations set out in this Section 17 ("Liability on the part of SweepMe! GmbH") do not apply to liability on the part of SweepMe! GmbH based on intentional conduct, injury to life, limb or health, in cases of bad faith, the assumption of a guarantee or claims under the Product Liability Act.

Section 18 Limitations period

(1) The following limitations periods apply:

a) For claims to repayment of remuneration following revocation or for a reduction in remuneration based on claims arising from defects in quality or defects in title, one year from submission of a valid declaration demanding revocation or a reduction in remuneration. Notice of contract revocation or a reduction in remuneration is only valid if provided within the deadline provided in b) for defects in quality and c) for defects in title;

b) One year in the case of claims based on defects in quality that do not demand repayment of remuneration following contract revocation or a reduction in remuneration;

c) Two years in the case of claims based on defects in title that do not demand repayment of remuneration, revocation or a reduction in remuneration; The foregoing notwithstanding, the applicable statutory limitations period applies if the defect in title relates to an exclusive right of a third party on the basis of which such third party may demand the surrender or destruction of objects provided to the customer;

d) Two years in the case of claims to repayment of remuneration, compensation for damages or reimbursement of futile expenses not based on defects in quality or defects in title.

(2) Subject to individual contractual provisions to the contrary, the limitations period commences as provided in applicable statutory provisions, in particular applicable warranty law, in cases referred to in paragraph (1)(b) and (c) and from the time at which the customer became aware of the circumstances giving rise to the claim, or should have become aware of them but for gross negligence, in cases referred to in paragraph (1)(d). A replacement delivery or repair does not result in the start of a new limitations period or the extension of the limitations period unless SweepMe! GmbH has stated its acknowledgement within the meaning of section 212 (1) no. 1 of the German Civil Code in the specific case. A claim is time-barred at the latest upon expiry of the maximum limitations periods referred to in section 199 of the German Civil Code.

(3) The foregoing notwithstanding, the applicable statutory limitations periods apply in the following cases:

a) In the case of claims for damages and reimbursement of futile expenses based on gross negligence and in the cases described in Section 17 (9);

b) In the case of claims based on a defect in the cases described in section 438 (1) no. 2 of the German Civil Code and section 634a (1) no. 2 of the German Civil Code;

c) In the case of claims for reimbursement of expenses after termination of a rental agreement; and

b) For all cases other than those referred to in paragraph (1).

Section 19 Employee solicitation

The customer undertakes not to solicit employees of SweepMe! GmbH, or have them solicited by third parties, or to promote or support third parties with regard to such solicitation actions for a period of two (2) years after termination of the respective contractual cooperation.

Section 20 Contractual penalties

In the event of a culpable breach of an obligation under Section 21 (“Confidentiality and data protection”) or Section 19 (“Employee solicitation”), the customer undertakes to pay to SweepMe! GmbH a contractual penalty to be determined by SweepMe! GmbH at its reasonable discretion on a case-by-case basis and which may be reviewed by the competent court in the event of a dispute as to its appropriateness. The penalty for breach of contract does not preclude claims for additional damages.

Section 21 Confidentiality and data protection

(1) The customer undertakes to treat the contents of individual contracts concluded on the basis of these Standard Business Terms, as well as all information and knowledge obtained in connection with contract negotiations and performance, as confidential and not to disclose any of the foregoing to third parties provided that SweepMe! GmbH has expressly stated that such information is confidential or is identifiable as confidential in light of the respective circumstances, unless disclosure is necessary for performance of the contract, disclosure is legally required or a court or authority has ordered disclosure. Provided that such notification is lawful, the customer will notify SweepMe! GmbH in advance of any compelled disclosure and limit disclosure to the necessary extent. Consultants, auditors, banks or insurance companies who are subject to confidentiality obligations are not considered third parties. This is without prejudice to any legal obligations concerning confidentiality.

(2) The customer is required to observe all currently applicable data protection laws and regulations. This also includes technical security measures based on the current state of the art (Art. 32 GDPR) and subjecting employees to commitments to maintain the confidentiality of personal data (Art. 28(3)(b) GDPR). In cases of contract data processing (Art. 28 GDPR) or joint controllers (Art. 26 GDPR), both parties are obliged to conclude a data protection agreement in accordance with the general standards upon request of the other party at any time.

(3) The obligation to pay a contractual penalty pursuant to paragraph (2) shall also apply for a period of a further five (5) years after the termination of the last *individual contract* concluded on the basis of these Standard Business Terms. (4) The obligations to maintain confidentiality

pursuant to paragraph (1) and to comply with data protection obligations pursuant to paragraph (3) shall survive termination of the contract and apply for an unlimited period.

II. Purchase of *standard software*

Section 22 Subject matter of the contract

(1) In the event that SweepMe! GmbH sells *standard software* to the customer, specific details, in particular regarding the nature and scope of performance as well as the type and number of licenses, shall be specified in the relevant the *individual contract*.

(2) The customer will receive the *standard software* in the form of an executable program. The customer has no claim to the transfer of the source code, templates or other source products. In cases where there is an obligation to provide documentation, it will be supplied in a common file format (e.g., PDF, Word, TXT) subject to any agreements to the contrary in the respective *individual contract*.

(3) The installation and set-up of the *standard software*, as well as the creation of associated *custom software* including modifications shall only be required if so specified in the *individual contract*. *Standard software* will be made available for download on a server in the absence of a provision to the contrary in the *individual contract*.

Section 23 Scope of the customer's rights of use

(1) The scope of the rights of use are specified in the relevant *individual contract* as well as the SweepMe! GmbH licensing terms and conditions referred to therein. In addition, the "License Terms for the SweepMe! Standard Software, including free additional programs ("SweepMe! EULA"), shall apply to the primary program, SweepMe!, and free additional programs.

(2) If the *standard software* contains or uses a third-party program or a program under a *free license*, or the *standard software* contains or uses such programs, the license terms applicable to such programs shall apply rather than the terms of the instant licensing agreement.

(3) The acquisition of such right of use is subject to the condition precedent of full payment of remuneration owed. Prior to satisfaction of such condition, the customer merely has a preliminary, contractual right of use in the form of permission that may be revoked at any time under Section 4.

(4) SweepMe! GmbH may revoke the customer's rights of use for good cause. Without limitation, good cause includes circumstances where the customer materially violates its obligations under applicable licensing terms despite a written warning. In the event the right of

use does not arise or terminates, SweepMe! GmbH may demand that the customer return all objects and *standard software* provided to it as well as the destruction of all copies of such objects and *standard software* or a written assurance that all objects and *standard software*, including all copies, have been destroyed.

Section 24 Contractual obligation to inspect and give notice of defects

(1) The customer shall inspect the *standard software* after delivery without undue delay and, if a defect is apparent, shall give notice thereof in writing without undue delay, describing the symptoms of the defect in detail, provided that no functional test has been agreed and provided that this is feasible in the ordinary course of business. The customer is required to thoroughly test each essential function before the customer begins operational use. In any event, obvious defects must be reported in writing no later than on the 10th calendar day after delivery.

(2) If the customer fails to provide such notice, the *standard software* will be deemed to have been accepted unless the defect was not identifiable during inspection.

(3) If such a defect becomes apparent later, notification must be provided immediately after discovery, otherwise the *standard software* shall be deemed to have been approved even with regard to the defect concerned. In any event, defects that are not visible during inspection must be reported no later than the 10th day after discovery.

(4) SweepMe! GmbH cannot assert reliance upon the preceding provisions in cases in which SweepMe! GmbH has fraudulently concealed a defect or assumed a guarantee for the quality of the respective good or service.

(5) Paragraphs (1) to (4) shall also apply to new program versions and auxiliary programs provided to the customer within the scope of warranty liability or agreed maintenance.

Section 25 Material defects

(1) The *standard software* has the agreed qualities, is suited for use as intended in the contract, or otherwise for customary use, and has the same quality as is customary for *standard software* of the same type.

(2) Claims based on defects in quality are precluded in particular in the case of

- a) Supplies of goods and services by SweepMe! GmbH, for which the customer does not owe any consideration, in particular in the case of the provision of the main program, SweepMe!, and including additional free programs;

- b) Minor deviations from the agreed qualities and minor impairment of usability;
- c) Functional impairments in the *standard software* resulting from incorrect operation, use of the *standard software* outside the agreed environment, modification of the *standard software* in breach of contract or a defect in hardware not supplied by SweepMe! GmbH, provided that SweepMe! GmbH is not responsible;
- d) A breach of the contractual duty to inspect or notify as provided in Section 24;
- e) A breach of the statutory obligation to inspect goods or to give notice of defects in accordance with sections 377 and 381 of the German Commercial Code (Handelsgesetzbuch - "HGB"), Section 24 shall apply *mutatis mutandis* with regard to the manner of inspection and the content, form and timeliness of notice;
- f) Defects known to the customer at the time the agreement was entered into. If the customer is unaware of a defect due to gross negligence, the customer may only assert rights in respect of such defect if SweepMe! GmbH has fraudulently concealed the defect or has assumed a guarantee for the quality of the *standard software*; or
- g) A supply of goods or services to a destination outside the Federal Republic of Germany and in the event that the *standard software* is intended to be resold or used in an area outside the Federal Republic of Germany, if the *standard software* violates technical standards, violate legal or other sovereign provisions that apply in the country of the customer or in any other area outside the Federal Republic of Germany in which the *standard software* is intended to be resold or used, and which SweepMe! GmbH was not aware of nor should have been aware of; SweepMe! GmbH is not obliged to research the particular provisions of foreign law.
- h) A contract of sale for the supply of used *standard software*.

(3) The customer will support SweepMe! GmbH in performing an error analysis and remedying defects by providing a specific description of any problems that occur, by providing comprehensive information to SweepMe! GmbH and affording SweepMe! GmbH the required opportunity and time to remedy the defect concerned.

(4) SweepMe! GmbH may elect to remedy the defect by repairing the defect on site or at SweepMe! GmbH's business premises or by supplying *standard software* that is free of defects. At least three attempts at cure must be permitted in relation to a defect.

(5) A defect may be remedied on a temporary basis until it is finally resolved, which must be completed in a timely manner. This may also be accomplished by SweepMe! GmbH showing options to avoid the effects of the defect in the form of a workaround if and to the extent this is

reasonably acceptable to the customer. The customer must accept a new or a previous program version that does not contain the defect if this would be reasonable for the customer.

(6) SweepMe! GmbH may remedy the defect by means of remote maintenance. In the case of remote maintenance, the customer must ensure that required technical access is possible at its own expense and grant SweepMe! GmbH electronic access to the *standard software* after appropriate prior notification.

(7) If a defect reported by the customer cannot be verified or if SweepMe! GmbH, in particular according to paragraph (2)(c), is not responsible for the functional impairment concerned, the customer will bear the costs incurred by SweepMe! GmbH according to the agreed and/or customary prices unless the lack of a defect was not apparent to the customer.

(8) In the event of defects in *standard software* or parts of *standard software* supplied by SweepMe! GmbH which SweepMe! GmbH cannot rectify for licensing or practical reasons, SweepMe! GmbH shall, at its discretion, assert its claims for defects against its supplier or assign them to the customer. Claims for defects according to the provisions of this Section 25 may, in the event of assignment to the customer, only be asserted against SweepMe! GmbH in the event that an attempt to enforce such claims against the supplier by SweepMe! GmbH was unsuccessful without fault on the part of the customer or, for example, is futile as a result of insolvency. The statute of limitations applicable for the customer to assert claims against SweepMe! GmbH for the relevant defects is tolled during the pendency of litigation. SweepMe! GmbH will reimburse the customer for eligible costs related to the legal action according to applicable cost ordinances provided that the customer and its legal representatives reasonably considered them to be necessary under the circumstances and SweepMe! GmbH is not able to collect such costs from the supplier.

(9) The exclusions and limitations applicable to the rights of the customer according to this Section 25 do not apply if SweepMe! GmbH acted fraudulently or assumed a guarantee for the quality of the goods. However, the provisions set out in paragraph 2(f) shall apply to the cases described therein.

(10) Article I, Section 17 ("Liability on the part of SweepMe! GmbH") applies with regard to the scope and amount of liability for damages and reimbursement of futile expenses related to a defect for which SweepMe! GmbH is at fault.

Section 26 Defects in title

(1) Unless otherwise agreed in an *individual contract*, SweepMe! GmbH guarantees that the contractual use of *standard software* does not conflict with any third party rights within the Federal Republic of Germany. SweepMe! GmbH is only obligated to examine conflicting

industrial property rights or other intellectual property of third parties for the territory of the Federal Republic of Germany.

(2) In the event of delivery to a destination outside of the Federal Republic of Germany, and in the event that *standard software* is to be resold or are intended for use outside of the Federal Republic of Germany, conflicting industrial property rights or other third-party intellectual property rights only constitute a defect in title if SweepMe! GmbH was or should have been aware of such rights upon conclusion of the contract. Accordingly, the customer must conduct all required intellectual property searches itself prior to delivery and/or use in a foreign country.

(3) In the event of defects in title, SweepMe! GmbH will provide warranty relief in that SweepMe! GmbH will, at the discretion of SweepMe! GmbH, modify or replace the *standard software* in such a way that the rights of third parties are no longer infringed, but the *standard software* continues to fulfil the contractually agreed functions, or will procure rights of use for the customer by concluding a licence agreement.

(4) The customer must inform SweepMe! GmbH in writing if third parties assert property rights (e.g., copyrights, trademark or patent rights) in and to the *standard software* without undue delay. The customer authorises SweepMe! GmbH to resolve the dispute with the third party concerned itself. If SweepMe! GmbH makes use of this authorisation, the customer may not acknowledge the third party's claims without SweepMe! GmbH's consent. SweepMe! GmbH will then defend against the claims of the respective third party at its own expense and will indemnify and hold the customer harmless against the costs associated with such defence provided that the respective claims are not based on a contractual breach by the customer (e.g., use of the *standard software* in violation of the contract).

(5) Section 25(2)(d) and (e), as well as paragraphs (8), (9) and (10) shall apply *mutatis mutandis*.

III. Creation of custom software

Section 27 Subject matter of the contract

(1) In the event that SweepMe! GmbH creates *custom software* for the customer, specific details, in particular regarding the quality, the scope of services and project management, will be specified in an *individual contract*.

(2) If the creation of *custom software* consists of making modifications to a program, and if the program to be so modified is a program under a *free license*, then this is not the *deliverable*. The program to be modified that is subject to a *free license* is to be supplied by the customer. In particular, such supply by the customer does not change if SweepMe! GmbH takes assumes the task of downloading and installing the program from an Internet server subject to a *free*

license. In all other cases, the Parties shall specify in the relevant *individual contract* whether the program to be adapted is part of the *deliverable*.

(3) The customer will receive the *custom software* in the form of an executable program. The customer has no claim to the transfer of the source code, templates or other source products. In cases where there is an obligation to provide documentation, it will be supplied in a common file format (e.g., PDF, Word, TXT) subject to any agreements to the contrary in the respective *individual contract*.

(4) An obligation to install and set-up *custom software* only applies if so provided in the relevant *individual contract*. The *custom software* will be made available for download on a server in the absence of a provision to the contrary in the *individual contract*.

Section 28 Optional creation of a technical concept

(1) SweepMe! GmbH will create a technical concept on behalf of the customer to the extent expressly agreed. The basis for this comprises the task defined by the customer.

(2) The technical concept describes the target status of the *custom software* to be developed, including the target status of any agreed additional services. Further details are to be set out in an *individual contract* to be concluded between the Parties.

(3) The customer is obliged to cooperate.

(4) The technical concept is to be accepted by the customer within fourteen (14) days after completion. The customer is to review the technical concept for accuracy and completeness. Once accepted, the technical concept becomes part of the respective *individual contract*. If and insofar as there are any conflicts with the task as defined by the customer, the technical concept shall have priority. Upon acceptance of the technical concept, SweepMe! GmbH will commence creation of the *custom software*.

(5) Defects that are apparent to the customer from the technical concept must be reported upon acceptance of the technical concept, however no later than prior to the time at which SweepMe! GmbH incurs expenses to start the implementation of the technical concept. If identifiable defects are reported later, the customer shall bear the additional costs arising from such later consideration of the respective complaint.

(6) The technical concept must be updated accordingly by SweepMe! GmbH if changes are made to the statement of work after the start of implementation.

(7) SweepMe! GmbH must be remunerated for the creation and revision of the technical concept.

Section 29 Functional testing

(1) Each (partial) acceptance shall be preceded by a functional test. Within the scope of such testing, the customer tests each functionality thoroughly for its usability in the specific situation before the customer commences operational use of the *deliverable*.

(2) The customer is responsible for arranging functional testing. SweepMe! GmbH will support the customer in performing functional testing as needed. The details of the relevant functional testing, in particular the type, scope and duration, may be specified in the *individual contract*. Functional testing shall be subject to reasonable extension upon the legitimate request of a Party.

(3) During functional testing, the customer is obliged to notify SweepMe! GmbH in writing of any deviations from the requirements of the deliverable without undue delay, stating the manifestations of the error in a specific and easily comprehensible manner or, in the event that a ticket system is used, via such ticket system. The following classification system applies for such purposes:

Error categories	Description	Examples
Class 1 Critical operating errors	The error prevents operation of the contractual <i>software</i> by the customer; there is no workaround.	A central function cannot be performed at all, or is performed so deficiently, such that the intended result cannot be achieved even by means of proposed alternative paths ("workaround").
Class 2 Non-critical operating errors	The error significantly impedes operation of the contractual <i>software</i> by the customer, but its use is possible with workarounds or with restrictions or impediments that may be acceptable temporarily.	Despite the loss of a central function, the intended results can be achieved by means of a workaround. A less central function fails; meaningful use of the <i>software</i> is still possible even though a workaround is not available.
Class 3 Other errors	Other errors	(Cosmetic) errors where texts are displayed in the wrong format. Missing checks for input functions or errors in the (if

		<p>contractually owed) user documentation that do not cause subsequent errors.</p> <p>Faults in user-friendliness.</p> <p>Individual functions or queries take too long compared to the state of the art, without this leading to unacceptable impediments.</p>
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(4) In cases where the overall effect of Class 3 errors is to materially impair use of the *custom software*, or its sub-modules, the overall effect of such errors may comprise a Class 1 or Class 2 error as applicable.

(5) Functional testing shall be deemed to have been successful if no errors are found that would prevent acceptance. This is the case if there are only Class 3 errors, unless circumstances described in paragraph (4) would apply.

(6) Insofar as they prevent successful functional testing, SweepMe! GmbH will summarise deviations to a suitable extent, rectify them and declare readiness for acceptance after they have been rectified. This is to be followed by new functional testing, which the customer must perform in a prompt manner.

Section 30 Acceptance

(1) The contractual conformity of the *deliverable* is to be confirmed by means of acceptance.

(2) The acceptance process shall commence after SweepMe! GmbH has notified the customer of readiness for acceptance.

(3) The customer will declare acceptance upon successful completion of functional testing (Section 29). Any remaining defects, in particular Class 3 defects that do not prevent acceptance (Section 29 (3)), will be recorded in the acceptance declaration and rectified by SweepMe! GmbH within the scope of SweepMe! GmbH's liability for material defects and defects in title (Section 32).

(4) Acceptance is to be stated in writing. An acceptance report is to be prepared.

(5) Acceptance shall be deemed to have taken place if

a) The customer has placed the *deliverable* into service or has transferred it to third parties, even if this infringes the terms of the licence, provided that such placement into service is made without notification of defects that would prevent acceptance and such transfer is not merely for test purposes;

b) The customer has not notified SweepMe! GmbH of any defects that would prevent acceptance within ten (10) days of notification of readiness for acceptance (paragraph (2)); or

c) After completion of the *deliverable*, the customer has not refused acceptance expressly naming at least one defect within a reasonable period set by SweepMe! GmbH.

(6) At the request of SweepMe! GmbH, the customer shall specifically accept self-contained parts of its performance. The preceding paragraphs shall apply *mutatis mutandis* to such partial acceptances, however, the time limit according to paragraph (5)(b) shall be reduced to one (1) week. If the customer is in default in relation to a partial acceptance, SweepMe! GmbH is entitled to refuse further performance without prejudice to further rights resulting from such default.

Section 31 Scope of the customer's rights of use

(1) SweepMe! GmbH grants the customer, subject to any other specific agreements in an *individual contract* a simple, perpetual right of use with limited transferability to the *custom software* for the territory of the Federal Republic of Germany. The specific subject matter of such right of use is based on the *individual contract*, alternatively from the purpose for which such right of use was granted.

(2) If the *custom software* contains or uses a third-party program or a program under a *free license*, the license terms applicable to such programs shall apply rather than the terms of the instant licensing agreement.

(3) The following shall apply with regard to the scope of the right of use in cases in which the creation of *custom software* involves the modification of *software*:

a) If the program to be adapted is *software* from SweepMe! GmbH, the rights of use to the work product created thereby shall, subject to agreement to the contrary in the *individual contract* concerned, not be different from the rights of use applicable to such SweepMe! GmbH *software*.

b) In the case of modifications to third party programs or programs under a *free license* the customer will receive those rights to the work product created within the scope of such modification as designated in the *individual contract*; absent such a provision, this will be a simple, perpetual right of use subject to limited transferability for the territory of the Federal

Republic of Germany If, based on the *free licence* or applicable third-party licensing terms, that other rights must be granted for the modifications concerned, e.g., the modifications are also subject to the *free licence* or are to be revised to comply with applicable third-party licensing terms, provisions contained in the *free licence* or applicable third-party licensing terms will have priority.

(4) The acquisition of such right of use is subject to the condition precedent of full payment of remuneration owed. Prior to satisfaction of such condition, the customer merely has a preliminary, contractual right of use in the form of permission that may be revoked at any time under Section 13.

(5) The customer may make copies of the *custom software* exclusively to exercise its rights of use and for backup purposes. Backup copies must be kept securely and, as far as technically possible, must include a reference to SweepMe! GmbH's authorship. The manual and other documents provided by SweepMe! GmbH may be copied only for internal purposes. Transfers to third parties are prohibited subject to the provisions of paragraphs (6) and (7).

(6) To the extent that SweepMe! GmbH placed the *custom software* on the market within the territory of the European Union or any other signatory to the Agreement on the European Economic Area or Switzerland, the customer is only entitled to transfer the *custom software* to third parties, in whole or in part, on the basis of the following rules and after completing the following procedures:

- a) The customer hands over the *custom software* to the third party. If SweepMe! GmbH supplied the *custom software* on data carriers, the customer shall surrender the data carriers concerned to the third party. The customer shall also surrender the user manuals and other documents for the *custom software* originating from SweepMe! GmbH to the third party.
- b) The customer must delete all other copies of the *custom software* (regardless of version), including without limitation on workstation computers, servers, data media and other storage media, with the exception of copies made for data backup and archiving purposes such that segregation and separate deletion is not possible or would require unreasonable effort and expense, must completely and finally cease use and provide written confirmation to SweepMe! GmbH that it has complied with these obligations.
- c) The transfer to the third party concerned is permanent, i.e., without a right of return or re-purchase option.
- d) The customer declares in writing to SweepMe! GmbH that the customer has informed the third party of the agreements between the customer and SweepMe! GmbH concerning the scope of the transfer of rights of use to the *custom software* as well as

all the provisions of the Standard Business Terms that apply to the intended use of the *custom software*.

(7) To the extent that SweepMe! GmbH placed the *custom software* on the market outside of the territory of the European Union or that of any other signatory to the Agreement on the European Economic Area or Switzerland, it may not be transferred to third parties absent written authorisation from SweepMe! GmbH.

(8) In the event that the customer breaches the rules set out in paragraph (6) or paragraph (7), the customer shall owe SweepMe! GmbH a contractual penalty equal to the amount that the third party would have had to pay SweepMe! GmbH at the time of transfer and, in any event, no less than the amount of remuneration agreed between the customer and SweepMe! GmbH. This is without prejudice to additional claims for damages.

(9) Only after expiry of a reasonable deadline for rectifying errors set by the customer without result, may the customer rectify an error in the *custom software* itself provided that this does not change or expand the contractually-defined use; this does not give rise to an obligation on the part of SweepMe! GmbH to release the source code. Section 323 (2) of the German Civil Code shall apply *mutatis mutandis*. There is no need to set a deadline if an attempt at cure has failed or would not be reasonably acceptable to the customer. SweepMe! GmbH may subject error rectification to payment of an appropriate advance following the end of the warranty period and outside of the scope of a software service and/or maintenance agreement.

(10) The customer may decompile interface information for the *custom software* only within the limits of section 69e of the Act on Copyright and Related Rights (Urheberrechtsgesetz - "UrhG") and only after it has informed SweepMe! GmbH in writing of its plans and requests provision of the required information within a period of at least one (1) month. All knowledge and information the customer acquires in connection with decompiling is subject to Section Article I, Section 21 ("Confidentiality and data protection"). Prior to any involvement of a third party, the customer shall provide SweepMe! GmbH a written statement from such third party that such third party directly commits to SweepMe! GmbH to comply with contractual confidentiality provisions and the rights of use.

(11) All other forms of use, in particular renting or using the *custom software* by and for third parties (e.g., by outsourcing, computer centre operations, application service providing, cloud services) are not permitted without prior written approval from SweepMe! GmbH.

(12) The *custom software*, and all documents, proposals, test programs and other items of SweepMe! GmbH associated with the *custom software* supplied to the customer before or after conclusion of the contract shall be deemed to be intellectual property and business and trade secrets of SweepMe! GmbH. To the extent not otherwise provided above, they may not be used in any form without the written authorisation of SweepMe! GmbH and must be kept confidential as provided in Article I, Section 21 ("Confidentiality and data protection"). In the

event that employees, subcontractors, affiliated companies or cooperation partners of the customer are entitled to use the *custom software*, the customer shall inform them of the scope and limits of the rights of use as well as the agreed confidentiality and shall oblige them to comply with the contractual provisions on confidentiality and the rights of use, including directly in relation to SweepMe! GmbH.

(13) SweepMe! GmbH may revoke the customer's rights of use for good cause. Without limitation, good cause includes circumstances where the customer materially violates its obligations under the preceding paragraphs despite a written warning. In the event the right of use does not arise or terminates, SweepMe! GmbH may demand that the customer return all objects and *software* provided to it as well as the destruction of all copies of such objects and *software* or a written assurance that all objects and *software*, including all copies, have been destroyed.

Section 32 Contractual obligation to inspect and give notice of defects; Material defects and defects in title

The provisions of Article II, Section 24 ("Contractual obligation to inspect and give notice of defects") shall apply accordingly. Article II, Section 25 ("Material defects") shall apply with regard to liability on the part of SweepMe! GmbH for material defects. Article II, Section 26 ("Defects in title") shall apply with regard liability on the part of SweepMe! GmbH for defects in title of the *custom software*, as well as for new program versions and auxiliary programs which the customer receives within the scope of warranty claims.

Section 33 Responsibility for supplied programs

SweepMe! GmbH shall not be liable for material defects and defects in title of programs to be customised in the case customisations to programs under a *free license* or other programs provided by the customer.

IV. Consulting related to service contracts and/or support services

Section 34 Subject matter of the contract

(1) Insofar as SweepMe! GmbH provides consulting and/or support services, including the performance of workshops, briefings and training courses, to the customer under a service contract, the further details, in particular regarding the scope of services, shall be based on the respective *individual contract*. SweepMe! GmbH regularly provides such consulting and/or support services under a service contract, in particular in cases where SweepMe! GmbH is obliged to provide the service alone according to applicable contractual agreements; this is the

case, for example, when collaborating on larger projects under the management of the customer.

(2) SweepMe! GmbH will provide the consulting and/or support services stipulated in the service agreement using appropriate personnel to the agreed extent. SweepMe! GmbH is not obliged to produce a specific work or otherwise to achieve a specific result.

Section 35 Project responsibility

In the event that SweepMe! GmbH provides consulting and/or support services to the customer pursuant to a service contract, the customer, in particular its project manager, shall bear the overall responsibility for the proper, timely and on-budget realization of the project.

Section 36 Scope of the customer's rights of use

(1) SweepMe! GmbH grants the customer a simple, worldwide and perpetual copyright-based right of use to the results of services provided by SweepMe! GmbH. The specific subject matter of such right of use is based on the *individual contract*, alternatively from the purpose of the service contract.

(2) The acquisition of such right of use is subject to the condition precedent of full payment of remuneration owed.

(3) SweepMe! GmbH is not obliged to examine work product for conflicting industrial property rights or other intellectual property of third parties.

(4) As between the parties, documents, proposals, test programs and other items of SweepMe! GmbH associated with the consulting and/or support services provided under the service contract supplied to the customer before or after conclusion of the contract shall be deemed to be intellectual property and business and trade secrets of SweepMe! GmbH. To the extent not otherwise provided above, they may not be used in any form without the written authorisation of SweepMe! GmbH and must be kept confidential as provided in Article I, Section 21 ("Confidentiality and data protection"). In all other respects, Article I, Section 15 ("Property rights") paragraphs (3) and (4) shall apply *mutatis mutandis*.

Section 37 Supplies by the customer

Subject to express agreement to the contrary in an *individual contract*, all supplies of goods and services beyond the discrete service to be provided by SweepMe! GmbH are excluded. Without limitation, the customer must provide all materials related to the service (e.g., texts,

graphics, pictures, videos, third party programs including *free licenses*) in accordance with Article I, Section 11 (“Supplies by the customer; Free licenses”).

V. Miscellaneous provisions

Section 38 Exclusions

(1) Without limitation, absent express agreement, the scope of services of an *individual contract* concluded on the basis of these Standard Business Terms does not include:

- a) All services performed by SweepMe! GmbH at the customer’s request outside *normal business hours* unless the contractually agreed service is to be performed outside normal business hours;
- b) All services performed at the request of the customer at a location other than the registered office of SweepMe! GmbH;
- c) Defect remediation after the end of the warranty liability and outside of a software maintenance and support contract;
- d) Work and services that become necessary as a result of improper use by the customer, such as non-compliance with instructions for use, regardless of whether this was done by the customer, its vicarious agents or other persons within the customer’s sphere of influence;
- e) Holding workshops, briefings and training courses;
- f) Work and services that become necessary due to force majeure events or other circumstances for which SweepMe! GmbH is not responsible;
- g) Work and services resulting from changed or new specific usage requirements of the customer;
- h) Work and services related to software not covered by the contract, e.g. MS Outlook Exchange server, ERP systems, operating systems and databases, as well as on hardware including server and network infrastructure and mobile terminals;
- i) Work and services rendered necessary by use of the *software*, as well as programs subject to maintenance, by the customer or its vicarious agents which exceeds the usual extent, e.g., frequent mass dispatch of documents, permanent exports in full synchronisation and the effects of such a use, such as in particular increased data traffic, increased use of storage space and computing power on the servers, increased

utilisation of the networks and data lines as well as additional outlays of work and personnel on the part of SweepMe! GmbH.

(2) Services referred to in paragraph (1) shall only be provided on the basis of a specific agreement in the *individual contract* concerned and only upon payment of separate remuneration. The obligation to pay separate remuneration does not apply solely in cases where expressly so provided in the *individual contract* concerned.

Section 39 Use as a reference

SweepMe! GmbH is authorised to include the customer's company name and logo, as well as a brief description of the project, in reference lists and to publish and disseminate them on the Internet, in print media, in presentations or otherwise for purposes of providing factual information. Any additional use is prohibited unless provided otherwise.

Section 40 Notifications and declarations

(1) Unless provided otherwise, text form as provided in section 126b of the German Civil Code (e.g., emails or facsimile) is sufficient, but not required, for all declarations and notifications associated with normal contract performance. However, declarations which modify, end or otherwise restructure the contractual relationship (e.g., notices of termination) or for which these Standard Business Terms or applicable law expressly so provide, must be in writing (section 126 of the German Civil Code), whereby transmission by means of telecommunications is sufficient to comply with deadlines provided that the recipient receives the original without undue delay. The written form requirement according to sentence 2 also applies to any agreement to waive the written form requirement.

(2) Subject to proof to the contrary, an email is deemed to originate from the other party if the email contains the name and email address of the sender and a rendering of the sender's name as the conclusion of the message.

Section 41 Contact person; Project management

(1) The Parties shall each designate a contact person and an alternate in the *individual contract* who can take decisions on the contractual relationship or obtain such decisions without undue delay and who can provide information.

(2) The designated contact persons from both Parties, and their alternates, must be available to clarify questions and must be entitled to provide binding information and make decisions. Differing provisions may be provided in *individual contracts*.

(3) Each Party must give notice of changes in designated contact persons and/or their alternates to the other Party without undue delay. Until receipt of such notice, the previously designated contact persons and/or their alternate shall be deemed authorised to make and receive declarations within the scope of their representative authority.

Section 42 Assignment of rights and obligations

SweepMe! GmbH may transfer all rights and obligations arising under *individual contract* to third parties at any time. The customer may object to such a transfer within one month if legitimate interests of the customer are impaired by the transfer concerned, e.g. because the acquiring company is a direct competitor of the customer, does not offer the required knowledge and qualifications or there are legitimate doubts about its economic performance capacities.

Section 43 Final provisions

(1) These Standard Business Terms, and all individual contracts concluded with reference thereto, are subject exclusively to German law.

(2) The United Nations Convention on Contracts for the International Sale of Goods ("CISG") is excluded; this is without prejudice to non-waivable provisions of the United Nations Convention on Contracts for the International Sale of Goods (in particular Art. 12, Art. 28 and Art. 89 et seq. CISG).

(3) If the customer is a merchant, legal person under public law or a special fund under public law, or if a customer who is a consumer does not have a place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for any and all disputes related individual contracts concluded with reference to these Standard Business Terms shall be the location of SweepMe! GmbH head office. In addition, SweepMe! GmbH may bring suit against the customer at any other lawful place of jurisdiction. The preceding provisions do not affect exclusive places of jurisdiction prescribed by law.

(4) The agreements related to the place of jurisdiction under paragraph (3) are based exclusively on the laws of the Federal Republic of Germany.

(5) To the extent not otherwise provided in the preceding provisions or an *individual contract*, the place of performance is the location of SweepMe! GmbH's head office if the customer is a merchant, a legal entity under public law or a special fund under public law.

(6) A complaint may only be lodged with the court once the parties have attempted to resolve the matter outside of the courts. For such purposes, the parties should agree to a neutral third party as arbitrator. The limitations period for the relevant claim subject to dispute is tolled upon initiation of an attempt at resolution by one of the parties until the end of the arbitration process. Section 203 German Civil Code shall apply *mutatis mutandis*. Summary proceedings or lodging a complaint in order to toll a statutory limitations period that cannot be extended by agreement of the parties is permitted at any time.

(7) Insofar as any *individual contract* concluded with the customer on the basis of these Standard Business Terms contains loopholes, any such loophole shall be deemed to be filled by a legally effective provision that would have been agreed between the parties in light of the business purpose of the *individual contract* concerned had the parties been aware of the respective loophole.