

# General Terms and Conditions

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This template should have a:

1. Common part (Introduction, General Regulations and Concepts that are mandatory for all countries),
2. National (country specific) part: There are mandatory and optional elements. In general this part is dedicated to specific national regulations and specific settings of a NSP system.

Zu beachten sind Begrifflichkeiten wie:

CLIENT= ein Vertragspartner und zwar die Organisation/Unternehmen, vertreten muss diese werden durch einen Menschen, der handlungsfähig ist, das ist in unserem Fall der USER  
VCD-Provider (in Österreich National Service Provider=NVS)= der zweite Vertragspartner, der Dienstleistungsprovider

USER= der Mensch, der das System nutzt.

## **1. Parties** *(mandatory)*

- 1.1. The "VCD-Provider" together referred as "the Parties" have entered into this agreement ("the agreement") to specify the legal terms and conditions under which the VCD services will be provided by the X Service Provider X.
- 1.2. Parties are the VCD-Provider, addressed in XX and the Client, which is an organisation represented by the user (natural person). The Client is defined as the "Economic Operator" and the "Legal Entity"; the "User" is a natural person who acts on behalf of the Client and is authorised to act for the Client. Clients of the X Provider X are companies, which want to create a Virtual Company Dossier for participating in public procurement proceedings, either national or transnational.
- 1.3. (GENERAL) Each time a new version of this agreement is made available, the X Service Provider= X will notify the User at the address provided in XX.

## **2. Acceptance of terms** *(mandatory)*

- 2.1. In order to use the services of the VCD-Provider, the User (on behalf of the client) must agree to the terms by XX (doing); otherwise he/she may not use the services. By accepting the "User" confirms that she/he is authorized to act on behalf of the Client.

## **3. Use of the services** *(mandatory?)*

- 3.1. In order to access certain services the User will be required to provide information about himself as identification or contract details as part of registration process for the services.

- 3.2. The User agrees that any registration information he/she gives to the VCD-Provider will be accurate, correct and up to date.
- 3.3. The User agrees that he/she will not engage in any activity that interferes the services. "Interferes" means to take actions, which may destroy the services like denial of service attack.
- 3.4. The User of the VCD-Provider agrees to use the services only for purposes that are permitted by (a) the terms and (b) any applicable law or generally accepted practices or guidelines in the relevant jurisdictions.
- 3.5. The User agrees that he/she will not reproduce duplicate, copy, sell trade or resell the services for any purpose. !!
- 3.6. The User shall keep his/her accounts and passwords confidential. The User might contact the VCD-Provider immediately if he/she suspects misuse of his/her accounts or any security breach in the service.

#### **4. Proprietary Rights** *(optional/country specific)*

- 4.1. The Client shall not have any right, titled or interest in the VCD-Provider and its services.
- 4.2. The Client has proprietary rights on the VCD Skeleton Container generated by the VCD-Provider on his request.
- 4.3. The Client is not allowed to use any trade names, trademarks, service marks, logos, domain names and other distinctive brand features. All the contributions on this website are protected by copyright law.

## **5. Data Protection** *(optional/country specific)*

- 5.1. The Parties undertake to preserve confidentiality of any data, documents or other material that they have received from the other party or otherwise in relation to the execution of their responsibilities and services under this agreement and which are identified as confidential.
- 5.2. The VCD-Provider shall not collect or save any of its user`s data except the data is necessary to carry out the performance of its obligations in accordance with this agreement.

## **6. Charges** *(optional/Country specific)*

- 6.1. Under the Production pilot there will not be any charges for accessing the VCD-Provider .In the future a few services may be subject to charges and in this case the VCD-Provider will inform the User.

## **7. Termination** *(optional/Country specific)*

- 7.1. Each Party has an independent right to terminate the Agreement at any time by giving a written notice (electronically via mail to VCD-Provider) to the other party. After termination the User is not allowed to use the service (This wording only applies accordingly, when the User has to accept these terms and conditions every time, he/she gets on the service)
- 7.2. If the VCD-Provider seriously defaults on his obligations under this agreement, the User is entitled to terminate the agreement with immediate effect.

## **8. Liability/Disclaimer** *(mandatory, if necessary country specific)*

- 8.1. The VCD-Provider is not responsible for and cannot guarantee the accuracy of information on sites that he does not manage.
- 8.2. Under the Production Pilot the VCD-Provider takes to responsibility of the accuracy of the provided data on the platform. He further does not take any responsibility for the content and information of the provided data.
- 8.3. The VCD-Provider does not guarantee the accuracy or timeliness of information available from the service. The User acknowledges that computer and telecommunications systems are not free of faults and occasional periods of downtime. The VCD-Provider does not guarantee the service will be timely, secure or error-free or the data loss will not occur; the VCD-Provider does not guarantee that the service will not be interrupted.
- 8.4. The User (on behalf of the client) is responsible for the choice on the suggested evidences and criteria. The User makes the final choice of which evidences and criteria to include to the VCD. The User shall also contact the Contracting Authority and ask for clarifications in unclear cases.

## **9. Changes** *(optional/Country specific)*

- 9.1. The VCD-Provider may make essential amendments or changes to this Agreement.

## **10. Governing Law/Jurisdiction** *(mandatory, but individual in every country)*

10.1. The Client and the VCD-Provider agree to submit to the exclusive jurisdiction of the courts located in XX/ at the registered office of the respective XX. The International Private Law does not apply.

10.2. Should any provision of this Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this agreement. In such case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original.

## **11. Confidentiality** *(optional/ Country specific)*

11.1. The parties understand and respect the different terms and conditions each party may have to regard and will treat any information as confidential, in accordance with national legislation and/or internal rules and procedures.

11.2. With respect to what is stipulated above, the parties undertake to preserve confidentiality of any data, documents or other material that they have received from the other Party or otherwise in relation to the execution of their responsibilities and services under this Agreement in accordance with their respective national legislation and/or internal rules and procedures.

11.3. Information, which is subject to confidentiality, may not be disclosed to other persons, employees or others, than those to whom it is necessary to share such information and who are bound by confidentiality either by national legislation or by agreement.

11.4. Confidentiality does not, however, apply to material and information

(a) which is generally available or otherwise public, or

(b) Which the Party has received from a third party without an obligation of confidentiality, or

(c) Which was in the possession of the recipient Party without an obligation of confidentiality applying to it before receiving it from the other Party, or months, the party not affected may terminate this agreement by giving XX day's written notice to other party.

11.5. Any obligation of confidentiality shall survive termination of the Agreement.

## **12. Assignments and Amendments** *(optional)*

12.1. Any amendments to this Agreement shall be in writing (per Mail?) and shall have no effect unless signed by the duly authorised representatives of the Parties.

12.2. Unless expressly stated elsewhere in the Agreement, neither Party is entitled to transfer the Agreement or the rights, liabilities or obligations under the Agreement without a prior, written consent from the other Party.

## **13. Terms and Termination of the Agreement** *(optional/ country specific)*

13.1. The Agreement shall enter into force on the Effective Date as set out in Section 16 provided that it has been signed by duly authorised representative of both parties.

13.2. The Agreement is valid until XX. The Agreement may be prolonged subject to written confirmation by both parties.

13.3. Either party may terminate the Agreement in whole or in part immediately by written notice in case the other party: (a) commits a material breach to the provisions of the Agreement, which is not remedied within XX days from written notice thereof; (b) is declared bankrupt, seeks a composition of creditors, suspends payments or in any other way is deemed to be insolvent; (c) materially fails to comply with the confidentiality or security requirements of the Agreement, or if a Party, or any member of it or its sub-contractors' personnel, conducts business or otherwise by act or omission in the reasonable opinion of the other Party acts in wilful or criminal misconduct, which may reflect negatively on the latter Party.

13.4. The Parties are obliged to inform third parties that are affected by the termination of the Agreement of the giving of notice. If notice is given on the Agreement, the Parties undertake to negotiate on the procedures that pertain to the ending of the cooperation according to the Agreement in order to avoid any unnecessary disturbances in the customer relationships of the Parties.

## **14. Governing Law and Jurisdiction** *(mandatory)*

14.1. Without prejudice to any mandatory national law which may apply to the Parties, the Agreement is governed by the law of XX.



14.2. Should any provision of this Agreement become invalid, illegal or unenforceable, it shall not affect the validity of the remaining provisions of this agreement. In such case, the Parties concerned shall be entitled to request that a valid and practicable provision be negotiated which fulfils the purpose of the original provision.

## **15. Dispute Resolution** *(optional)*

15.1. Any disagreement arising between the Parties concerning any matter arising out of or in connection with this Agreement shall be amicably settled through negotiations.

## **16. Signature** *(optional/ country specific)*

16.1. The Agreement has been made in two identical copies, one for each Party. The Effective Date of the Agreement is \_\_\_\_\_.