SITS Deutschland GmbH (SITS-D)

General Terms and Conditions (GTC), as of 06/2024

The GTC consist of:

- Part A - General conditions;
- Part B - Special conditions for consulting services;
- Part C - Special conditions for services;
- Part D - Special conditions for training services; and
- Part E - Special conditions for the purchase of hardware and the temporary licensing of software.

In the event of contradictions, the provisions in Parts B, C, D and E shall take precedence over the conditions in Part A.

A. GENERAL CONDITIONS

1 SCOPE OF APPLICATION

1.1 Our services and deliveries are provided exclusively on the basis of the following terms and conditions (hereinafter referred to as "GTC"). These also apply to all current and future business relationships between SITS-D and its customers. Hereinafter collectively referred to as the "parties".

1.2 The GTC apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section § 310 para. 1 BGB (German Civil Code).

1.3 The application of the customer's general terms and conditions is excluded, even if we do not separately object to their validity. Deviating or contradictory terms and conditions shall only apply if they have been recognized by us in writing.

2 CHANGES

SITS-D is entitled to unilaterally amend these GTC or the services to be provided by SITS-D in order to comply with changed legal or regulatory requirements or if this is otherwise necessary for good cause. The prerequisite for this is that the customer is objectively not or only insignificantly worse off as a result of the change. SITS-D shall notify the customer in writing in good time, usually 30 days before the change comes into effect.

3 SERVICE PROVISION, PERFORMANCE TIME

3.1 SITS-D may use affiliated companies and third parties (subcontractors and freelancers) to provide its services.

3.2 Information on delivery and/or performance dates shall not be binding unless SITS-D has expressly designated them as binding in writing.

3.3 Delivery and performance deadlines shall be automatically extended if the customer is in default of payment for the respective contract or if SITS-D is prevented from delivering or performing due to circumstances beyond its control, such as force majeure or labor disputes. The extension shall also include a reasonable start-up time. Furthermore, deadlines shall be extended if the customer fails to provide a cooperation service that is due. Delayed or unperformed cooperation services may result in additional costs, which may be invoiced separately by SITS-D.

3.4 If the customer is in default of payment, SITS-D may also suspend or refuse the provision of services until all payments due have been made.

4 TERMS OF PAYMENT

4.1 Remuneration for services remunerated on a time and material basis is based on the applicable hourly rates. Remuneration is invoiced monthly in arrears.

4.2 Lump-sum payments are invoiced monthly in arrears.

4.3 Payment for goods shall be made on the basis of the contractually agreed price according to the invoice.

4.4 Material costs, travel costs and ancillary costs (e.g. shipping and packaging costs) are not included in the agreed remuneration. They will be charged according to the costs incurred (e.g. 1.25 EUR per kilometer driven from the responsible location, 2nd class train ticket, middle class hotel, flights outside the German-speaking area: 'business class', within the German-speaking area: 'economy class') as well as ½ hourly rate for the travel time from the responsible location.

4.5 All remuneration and prices are quoted in euros and do not include the applicable value added tax or any customs duties and other levies.

4.6 SITS-D invoices are due for payment within 14 calendar days of invoicing.

4.7 If the customer is in default of payment, SITS-D shall be entitled to charge default interest in the amount of 5 percentage points above the respective base interest rate. If the customer is in default of payment, all claims of SITS-D against the customer shall become due for payment immediately.

5 LIABILITY

5.1 SITS-D shall only be liable if the damage was caused by culpable breach of a material contractual obligation or is attributable to gross negligence or intent on the part of SITS-D or its vicarious agents.

5.2 In the event of a breach of material contractual obligations by SITS-D without gross negligence or intent, liability shall be limited to the foreseeable damage typical for the contract that was to be expected at the time the contract was concluded based on the circumstances known at that time. Liability shall also be limited to the amount of the remuneration payable for the relevant service under the relevant contract in the year in which the damage occurred.

5.3 Furthermore, SITS-D shall not be liable for indirect damages, consequential damages or loss of profit in the cases specified in Section 5.2. In particular, contractual penalties or comparable sanctions agreed by the customer with its own customers shall not be eligible for compensation, unless it can be proven that the customer has actually incurred damages at least in the amount of the contractual penalty that are compensable under the above provisions.

5.4 Claims for damages under the Product Liability Act, from an assumed guarantee or due to injury to life, body or health remain unaffected by the above limitations.

6 WARRANTIES, ASSURANCES

Guarantees and similar assurances refer to the technical description of the service, not to a legal guarantee or durability guarantee in accordance with §§ 443, 444 and 639 BGB or an independent guarantee promise, unless expressly agreed otherwise.

7 EXEMPTION

Should third parties assert claims against SITS-D due to their contractual use of the services, products and services, in particular due to a copyright-, patent or trademark infringement, the customer shall indemnify SITS-D against these third-party claims on condition that SITS-D in such a case

- informs the customer immediately of the assertion of the third-party claim;

- does not recognize or settle the third-party claim without the customer's written consent; and

- the customer relinquishes full control over the defense against the third-party claim, provides reasonable support in the defense against the third-party claim and provides all necessary information and data.

8 FORCE MAJEURE

8.1 In cases of force majeure, such as in particular war, attacks, fire damage, natural events, strikes, lawful lockouts, objective impossibility of procuring energy, epidemics and pandemics, insofar as a risk level of at least "moderate" is defined by the Robert Koch Institute, the party affected by this is released from the obligation to deliver or purchase for the duration and to the extent of the impact.

8.2 However, the party affected by the force majeure event shall take all reasonable measures to minimize the impact of the force majeure event on the other party and its contractual obligations and at the same time maintain its own performance as far as possible. The party that is prevented from fulfilling its contractual obligations due to an event of force majeure shall inform the other party thereof without delay. Furthermore, the party shall immediately after the cessation of the force majeure event make up for those services in accordance with the contract which it was prevented from rendering by and during the force majeure event.

9 CANCELLATION OF CUSTOMER APPOINTMENTS

If the customer does not make use of or postpones appointments agreed with SITS-D, the customer must notify SITS-D in writing at least five working days in advance. Otherwise, SITS-D shall be entitled to charge the customer regardless of whether the appointment is carried out.

10 CONFIDENTIALITY AND DATA PROTECTION

10.1 The parties undertake to treat as confidential all information they receive or become aware of from the other party before or during the execution of the contract ("confidential information"), even after the respective end of the contract, to protect it against unauthorized access by third parties and, in particular, not to disclose it to third parties (with the exception of affiliated companies) without the consent of the other party. The parties shall use confidential information of the other party exclusively for the purposes of performing the contract. Confidential information may be disclosed to third parties if this is necessary for the performance of the contract or if a party is obliged to do so by law or by order of government bodies. The other party must be informed of this as early as possible, insofar as this is legally permissible.

10.2 The confidentiality obligation does not apply to such information of the other party that

- were already known to one party prior to disclosure by the other party;

- are publicly known or become publicly known without violation of this Section 10;

- developed independently of this Agreement by a party without using confidential information of the other party; or

- were disclosed to a party by a third party;

- are or become generally known through no fault or action of the receiving party.

10.3 Unless otherwise stipulated in the individual contract, the results of software tests provided to the customer by SITS-D are confidential until released by SITS-D and may not be published or otherwise made accessible to third parties by the customer.

10.4 At the end of the contract, the parties shall return any confidential information received to each other or destroy it appropriately, unless it was the subject of the contract. If statutory provisions require archiving, copies may be made. The confidentiality agreement shall continue to apply for three years after termination of the respective contract.

10.5 Insofar as personal data is collected and processed as part of the execution of the contract, the parties shall comply with the requirements of the applicable data protection law.

11 REFERENCE

SITS-D and its affiliated companies may name the customer as a reference customer following the successful conclusion of the contract. The use of the full company name and logo is permitted. SITS-D is also entitled to publish and use product logos of tested products of the customer as well as a description of the services provided in press releases, on the website and in other marketing materials without any time or geographical restrictions.

12 SITS-D LOGOS

If the use of a SITS-D logo (e.g. AV-TEST) has been agreed in the individual contract, SITS-D shall grant the customer a non-exclusive, non-transferable, time-limited right to use the logo in connection with the service results and in accordance with the corresponding guidelines provided to the customer for this purpose after full payment. This right of use expires one year after the end of the contract, unless otherwise agreed.

13 TERMINATION FOR GOOD CAUSE

SITS-D is entitled to extraordinary termination of contracts in particular if

- the customer is in default of payment for more than four weeks;

- the customer is in arrears with more than two consecutive payments;

- the customer is insolvent (or there is a significant deterioration in the customer's financial circumstances) and an application to open insolvency proceedings against the customer's assets has not been filed;

- an application to open insolvency proceedings against the customer's assets has been rejected for lack of assets; or

- the customer has breached the duties of confidentiality.

14 PRICE ADJUSTMENT

SITS-D may increase the remuneration appropriately, by a maximum of 10%, 12 months after the start of the contract or after the last increase. The increase, including the criteria for the increase, must be announced to the customer in writing at least 60 days in advance. The customer is entitled to terminate this contract in writing within 30 days of receiving notification of the increase with effect from the date on which the increase comes into force.

15 EXPORT-IMPORT REGULATIONS

Export or import regulations may apply to the products delivered by SITS-D, depending on the country to which the delivery is made. The customer is responsible for ensuring that the products ordered by them comply with all laws and regulations of the respective country of destination. SITS-D will endeavor to inform the customer of such regulations.

The customer shall indemnify SITS-D against all damages incurred by SITS-D as a result of the customer violating the applicable export or import regulations or its obligations under this Section 15.

16 LEGAL DISPUTES AND APPLICABLE LAW

16.1 Contracts concluded between the parties shall be governed exclusively by the laws of the Federal Republic of Germany, excluding the conflict of laws provisions.

16.2 To the extent permitted by law, the parties agree that the Wiesbaden Regional Court shall have exclusive subject-matter, local and international jurisdiction for all disputes arising from and in connection with contracts concluded between them.

17 MISCELLANEOUS

17.1 The transfer of rights and obligations as well as the assignment of claims require the prior written consent of SITS-D. The assignability of monetary claims remains unaffected (§ 354a HGB). SITS-D shall be entitled to transfer rights and obligations as well as the contract as a whole to a third party, provided that this does not jeopardize the provision of services under the contract.

17.2 Collateral agreements must be recorded in writing in order to secure evidence. Legally relevant declarations and notifications must be made in writing.

17.3 Unless otherwise agreed, the periods from Monday to Friday from 9 a.m. to 6 p.m. (with the exception of public holidays at SITS-D's place of business) shall be deemed to be business and service hours. If the service is provided on working days Monday to Friday between 6 p.m. and 9 a.m., a surcharge of 50% shall be added to the invoice. Services provided on Saturdays will be invoiced with a surcharge of 100%. Services provided on Sundays and public holidays, if agreed, will be charged at a surcharge of 200%.

17.4 The customer is only authorized to offset or exercise rights of lien or retention if the claims are undisputed or have been legally established.

17.5 The appointment of employees for the provision of services by SITS-D is non-binding. In the event of unforeseeable absences, other qualified employees may be deployed.

17.6 Insofar as SITS-D provides services and performances free of charge, these may be discontinued at any time and without prior notice. This does not give rise to a right to a reduction and/or claims for reimbursement or damages.

17.7 The following shall apply to services for which acceptance has been agreed: After SITS-D has declared readiness for acceptance, the customer shall have three weeks to inspect the essential functions of the service and declare acceptance, unless another period has been agreed ("inspection period"). If the customer does not report any defects that significantly impair the usability or puts the work into productive use after expiry of this inspection period, the service shall be deemed to have been accepted.

B. SPECIAL CONDITIONS FOR CONSULTING SERVICES

1   OBLIGATIONS OF THE CUSTOMER

1.1   The customer shall support SITS-D by providing reasonable assistance in the provision of the services, insofar as this is necessary for the proper provision of the consulting services.

1.2   The customer shall provide SITS-D in good time with all necessary information, documents and access to the IT infrastructure and the premises that are necessary for the fulfillment of the contract.

2   RUNTIME

Unless otherwise agreed, contracts for consulting services are concluded between the parties for an indefinite period. These can be terminated with a notice period of 3 months to the end of the year.

3   SUPPLEMENT FOR FORENSIC CONSULTING SERVICES

SITS-D's approach meets the requirements of diligence, accuracy, traceability and non-refutability in order to ensure a legally sound evidence base. However, no guarantee of completeness can be given.

In the event of a court summons, the customer shall bear the costs as in the case of an on-site appointment, less any court reimbursements.

C. SONDER CONDITIONS FOR SERVICES

1   SERVICE PROVISION

1.1   Unless expressly agreed otherwise, SITS-D shall provide the services in accordance with the standard customary in the industry and the recognized rules of technology.

1.2   Services are treated as services within the meaning of service contract law and not as work services.

2   AVAILABILITY OF SERVICES

2.1   SITS-D guarantees server availability of at least 98% on an annual average, measured at the server's interface to the Internet. This is based on 24/7 availability. Downtimes due to force majeure, the fault of third parties who are not vicarious agents of SITS-D, etc. or planned maintenance windows are not taken into account. Planned maintenance windows must be announced at least two weeks in advance. A weekly maintenance window from Sunday 9 p.m. to Monday 6 a.m. and daily from 11 p.m. to midnight is agreed. The availability of the Internet or the customer's connection to it is not the responsibility of SITS-D.

2.2   SITS-D may restrict access to the services if the security of network operation, the maintenance of network integrity, in particular the avoidance of serious disruptions to the network, software or stored data, so require.

2.3   SITS-D is not responsible for the installation of programs that are necessary for the use of the services by the customer. SITS-D does not warrant that such programs will not impair the functionality of programs already installed at the customer's premises or that they will interoperate with them without interference.

2.4   Insofar as SITS-D provides software, manuals and operating aids, this can be done online.

3   OBLIGATIONS OF THE CUSTOMER

3.1   The customer shall support SITS-D by providing reasonable assistance in the provision of the services, insofar as this is necessary for the proper provision of the services. The customer shall provide an appropriate number of contact persons with the necessary expertise.

3.2   The customer shall provide SITS-D in good time with all necessary information, documents and access to the IT infrastructure and software as well as to the premises that are necessary for the fulfillment of the contract.

3.3   The customer is responsible for creating the technical requirements for using the services and providing the necessary infrastructure (hardware, software, network connection, etc.). Appropriate security standards must be observed when using the services. The customer is solely responsible for evaluating the suitability of the services for the desired purpose and for complying with all applicable laws and legal provisions regarding the use of the services.

3.4   The customer is responsible for the regular and appropriate protection of their data and information in the form of backups and other measures.

3.5   In the event of a comparative test, the customer is obliged to check the test results and report any defects and errors to SITS-D before publication.

3.6   If the customer fails to fulfill its obligations, SITS-D shall be released from its own obligations, which depend on the customer's cooperation. Additional expenses incurred by SITS-D due to the customer's failure to comply with its obligations to cooperate shall be reimbursed. Further rights of SITS-D shall remain unaffected.

3.7   The customer is responsible and liable for all costs, damages and claims of third parties arising from the use and misuse of their user identification. The customer is obliged to protect their user identification and the associated password from access by third parties or to change them immediately or arrange for them to be changed if it is suspected that unauthorized third parties have gained knowledge of the use of the user identification, as SITS-D is not in a position to detect misuse of the user identification if the correct password is used.

3.8   Depending on the service, SITS-D may provide the customer with data to improve its software or analyze errors after the service has been provided. If this data contains

malicious functions ("malware"), SITS-D shall mark this accordingly. The customer is obliged to treat these as malware, to process them with caution and not to execute them, even if they are not recognized by current anti-virus software.

3.9 If the customer provides SITS-D software for comparative tests with other manufacturers, he assures that it is an identical version as it is regularly distributed under the respective designation.

3.10 If SITS-D is aware or has reasonable grounds to suspect that the customer's use of the services violates these GTC, statutory prohibitions/requirements, third-party rights or morality, SITS-D shall be entitled to immediately stop the unlawful use and block access to them. In such a case, SITS-D may terminate the contract without notice and shall be released from any performance obligations. In the event of such a breach, the customer shall be liable to SITS-D for compensation for all damages incurred by SITS-D as a result, unless the customer is not responsible for the breach.

4 TESTING OF SOFTWARE, HARDWARE, SYSTEMS

4.1 For the commissioning of tests, the customer shall grant SITS-D a non-exclusive, temporally and spatially unlimited right of use for the customer materials provided for the provision of services free of charge. This includes testing on an unlimited number of devices. SITS-D also reserves the right to archive the customer materials even after the end of the contract and to use them for subsequent reviews.

4.2 SITS-D is entitled to use the performance results and findings from the services provided, including log files/metadata, for its own purposes and for third parties, including publications. This does not apply to internal or confidential tests.

4.3 After full payment, SITS-D grants the customer a non-exclusive, non-transferable right to use the service results for its own purposes, unlimited in time and space. This does not apply to logos.

5 RUNTIME

Unless otherwise agreed, contracts are concluded with a fixed initial term of two years. The term is automatically extended by a further year unless one of the parties terminates the contract in writing with three months' notice to the end of the respective term.

D. SPECIAL CONDITIONS FOR TRAINING SERVICES

1 OBLIGATIONS OF THE CUSTOMER

1.1 The necessary hardware and software shall be provided for training courses at SITS-D's premises. The customer shall be informed of appropriate safety regulations and undertakes to pass these on to the participants.

1.2 In the case of training at the customer's premises, the customer shall support SITS-D appropriately at its own expense. The customer shall provide the service environment (e.g. rooms, facilities and equipment), while SITS-D shall provide the service content (e.g. documents, PowerPoint presentations, certificates and exams). The customer shall inform SITS-D about appropriate safety regulations.

2 CANCELLATION POLICY

The following cancellation rules apply to training courses / webinars:

- In the event of termination at least 15 working days before the start of the training course, the customer shall have no payment obligations.

- In the event of termination 14 to 5 working days before the start of the training, the customer shall owe SITS-D 50% of the agreed fee.

- In the event of termination 4 to 2 working days before the start of the training course, the customer shall owe SITS-D 75% of the agreed fee.

- In the event of termination 1 day before the start of the training or on the day of the training, the customer shall owe SITS-D the full agreed fee.

If the training/webinar is postponed, the customer must inform SITS-D at least 5 working days in advance. Otherwise, SITS-D reserves the right to charge 25% of the agreed fee for a postponement.

E. TERMS AND CONDITIONS FOR THE PURCHASE OF HARDWARE AND THE TEMPORARY LICENSING OF SOFTWARE

1 DUTIES OF THE CUSTOMER

The customer shall support SITS-D by providing reasonable cooperation for the agreed deliveries and services, insofar as this is necessary for the proper provision of the services.

2 PURCHASE CONTRACTS FOR HARDWARE, ACCESSORIES AND PRODUCTS

2.1 In the case of obvious defects, notification after 5 working days from delivery shall no longer be deemed immediate. Notwithstanding § 377 HGB (German Commercial Code), the customer must report discovered defects in text form. The notification of defects must contain a precise description of the defect in question. If the customer's notification of defects is not made in text form or if the notification of defects does not contain a precise description

of the defect, the products concerned shall be deemed to have been approved.

2.2 Delivery shall be made according to EXW - Ex Works (Incoterms 2020). The risk of accidental loss and accidental deterioration shall pass to the customer upon delivery to the carrier. If the customer is in default of acceptance, fails to cooperate or if the delivery is delayed for other reasons for which the customer is responsible, the risk of accidental loss or accidental deterioration shall pass to the customer at the point in time at which the customer is in default of acceptance.

2.3 Partial deliveries or deliveries before the agreed delivery date are permissible.

2.4 SITS-D shall remain the owner of the delivered products until full payment of all claims arising from the respective contract. In the event of breach of contract or default of payment by the customer, SITS-D shall be entitled to withdraw from the contract after a reasonable period of time and to take back the delivered products and utilize them to settle the outstanding claims.

2.5 During the period of retention of title, the customer is obliged to treat the delivered products with care and to insure them adequately at their own expense at replacement value against damage caused by fire, water and theft.

2.6 The customer shall be entitled to resell the delivered products in the ordinary course of business. However, the customer hereby assigns to SITS-D all claims arising from the resale in the amount of the outstanding invoice amount. SITS-D accepts this assignment.

2.7 The customer shall remain entitled to collect the claims. However, SITS-D shall be entitled to collect the claim itself if the customer does not meet their payment obligations towards SITS-D, is in default of payment, has filed an application for the opening of insolvency proceedings, insolvency proceedings have been opened or is unable to pay. In this case, the customer shall provide SITS-D with all information and documents necessary for the collection of the claim and inform the third party of the assignment.

3 CONTRACTS FOR THE LIMITED-TERM LICENSING OF SOFTWARE

3.1 Insofar as the subject of the contract is the sale of third-party software, the terms and conditions of the respective licensor shall take precedence.

3.2 SITS-D shall provide the customer with a copy of the software in digital form.

3.3 The software is protected by copyright. SITS-D or its licensors are entitled to all rights thereto. The customer may not remove or change existing markings, copyright notices or copyright notices in the software or on copies provided to them.

3.4 SITS-D grants the customer the simple, non-exclusive, non-transferable and non-sublicensable right, limited in time to the territory of the European Union for the term of the

contract, to use the software in accordance with the contract and exclusively for its own purposes.

3.5 Any use of the software not expressly permitted in the license terms is prohibited. In particular, the customer may not (i) copy the software, except for backup purposes or if absolutely necessary for authorized use; (ii) modify, adapt or create derivative works thereof; (iii) publish, disclose, sell, rent, lease, lend, distribute, make available online, sublicense, transfer or otherwise make the software available to a third party without SITS-D's prior written consent.
Access to the source code of the software is not included in the license. The customer may not decompile, disassemble or reverse engineer the software, unless this is permitted under mandatory law.

3.6 The regulations in para. 3.3 to 3.5 shall apply mutatis mutandis to modifications or enhancements of the software that SITS-D makes on behalf of the customer, as well as to other work results that SITS-D delivers to the customer in connection with the services.

3.7 Individual parts of the software may be subject to open source licenses. In such cases, SITS-D shall make the object code or the source code available to the customer upon request, insofar as the provision of the object code or the source code is provided for in the terms of the relevant open source license. Insofar as this is necessary for the lawful use of the service, the applicable open source license terms will be provided. By using the software, the customer accepts these open source license conditions. In the event of contradictions, they shall take precedence over these GTC.

3.8 The customer is obliged to take suitable measures to protect the software from access by unauthorized third parties.

4 WARRANTY

4.1 For material defects and defects of title, SITS-D shall, at its discretion, provide a warranty by repair or replacement free of charge. In all other respects, the statutory warranty provisions shall apply, unless otherwise stipulated below.

4.2 In the case of software, the defect may be remedied by the delivery or installation of a new program version or a workaround. If the defect does not impair the functionality or only insignificantly, SITS-D shall be entitled to remedy the defect by delivering a new version or an update within the scope of its normal version, update and upgrade planning, to the exclusion of further claims for defects.

4.3 In the case of delivery of products and works of third parties on which SITS-D is unable to carry out defect rectification measures for technical or legal reasons, SITS-D may fulfill

its warranty obligations by assigning its corresponding claims for defects against the third party to the customer.

4.4   The provisions of §§ 439 para. 3 BGB and 445a BGB are excluded.

4.5   Rights due to defects shall not exist if the customer has made changes or modifications to the products or software that have not been approved by SITS-D, unless the defect is not attributable to this change or modification.

4.6   Warranty claims of the customer shall become time-barred within one year after delivery or making available of the products or software, unless SITS-D is accused of willful misconduct. § 445b para. 2 BGB shall remain unaffected.