General Terms and Conditions of Purchase and Cooperation for Services

1. General principles / Scope of application

1.1 Solely these General Terms and Conditions of Purchase and Cooperation for Services (EKB-DL) shall apply to all legal transactions between the principal (= Software Quality Lab Academy or SWQLA (*Auftraggeber)*)) and the service provider (= supplier or partner or contractor of Software Quality Lab Academy *(Auftragnehmer)*). The version thereof which is valid at the time when the contract is concluded shall be applicable.

1.2 These EKB-DL shall also apply to all future contractual relationships, in particular also to accessory and follow-on contracts that do not explicitly refer to the EKB-DL.

1.3 General terms and conditions (GTC) or other general terms of the service provider are not applicable, unless they are explicitly accepted in writing by the principal.

1.4 If any of the provisions of these terms and conditions should be or become ineffective, this does not affect the validity of the remaining provisions and contracts which were concluded under those provisions. The invalid clause shall be replaced by an effective clause that most closely approximates the legal and economic intent of the ineffective clause.

1.5 Contractual clauses shall be valid in the following order:
These EKB are subordinate to specific project contracts and framework contracts that were concluded in writing with the contractor.
These EKB shall be superior to all documents transmitted by the contractror (e.g. offers, order confirmations, requirements specifications, delivery notes, invoices, etc.) even if the contractor disagrees in the subordinate documents.

2. Explanation of terms / Synonyms

2.1 Services in the instructions for the order = commissioned services.

2.2 Contract or project = those services commissioned by Software Quality Lab Academy in a single (1) order to the service provider

2.3 Unless otherwise agreed upon = if this was not specified in the instructions for the order or in a mutual written agreement that was signed on behalf of the company after the contract conclusion.

2.4 Invoicing at cost = invoicing for the provided services at the fees, allowable expenses and terms of payment that were agreed upon in writing with Software Quality Lab Academy.

3. Service provision / Contract execution

3.1 The service provider guarantees that the services to be provided will be rendered diligently, competently and according to state-of-the-art principles. Furthermore, the service provider is obliged to comply with other specifications or practices of the principal that were communicated in writing or orally, provided that they, as a minimum, comply with the state-of-the-art.

3.2 Services that shall be provided are those that are cited in a binding and written manner, in the written order and in the instructions for the order (if stated in the written order). If no explicit written order exists, the service provider is not entitled to commence with the provision of services. The principal is not obliged to pay for services that were provided by the service provider before the explicit written order or before the commencement date of services set out therein.

3.3 Unless explicitly agreed upon otherwise in writing, the services agreed upon as well as all other supplementary services and expenditures that are necessary for the proper provision of those

services are included in the offer price/order price. This includes in any case at least the following items: travel, instruction costs, meetings (to an appropriate extent, and if it is necessary for the proper provision of the services also on site at the principal's premises), backup of the data that are stored on the devices that are affected by the operations (this has to be carried out by the service provider before starting operations), elimination of errors that were caused by the service provider or a third party appointed by the service provider, tools or SW-products necessary or used for the provision of the services.

3.4 As a general rule, the service provider has no power of representation towards the customers of Software Quality Lab Academy. Statements at the expense of Software Quality Lab Academy may only be made by the service provider with the prior written permission of Software Quality Lab Academy.

3.5 The service provider carries out his tasks on his own responsibility, in coordination with Software Quality Lab Academy or the project manager of Software Quality Lab Academy, and is free in his decision regarding working place and time, whereby the suggestions of Software Quality Lab Academy and the customers of Software Quality Lab Academy, if any, shall, to the extent possible, be taken into consideration.

3.6 SWQLA or their customers shall provide the service provider in a timely manner with all the information and documents necessary for carrying out his activities.

3.7 A project commissioned by SWQLA within the scope of these EKB, shall be deemed to be governed by the framework that is provided either in these EKB or a separately agreed upon project contract or project sheet, whereby – unless explicitly stated otherwise - project deadlines as well as utilization and purchase volume are merely reference values and are primarily based on the actual requirements of SWQLA.

3.8 For all services provided that are calculated according to the extent of work, detailed records need to be kept, including at least the following elements:
   - project title
   - today's date
   - beginning and ending time of the activity on this particular day
   - duration of the activity, rounded to quarter-hour
   - type of activity (e.g. consulting, meeting, documentation, development, test, analysis, etc.)
   - informative description of the carried out activity (texts like 'miscellaneous', 'other matters', 'general office work', etc shall be avoided)
   The recordings have to be forwarded to the principal on a monthly basis at the first working day of the month following the provision of services (in between in any case at the latest with a (partial) invoice).
   To the extent requested, corresponding interim reports shall be delivered to the principal.

4. Service transfer, Warranty

4.1 The service provider warrants the professional execution of the assigned operations. He shall adhere to all obligations of diligence.

4.2 The service provider warrants to possess the know-how necessary for providing the services.

4.3 The service provider is obliged to provide the services agreed upon with utmost care and in compliance with the business principles of SWQLA, the data protection law, the project requirements and the operational requirements of the principal and their clients (e.g. work regulations, safety rules,…).

4.4 After completion of the service provision, the service provider shall issue a final invoice when transferring the services.

4.5 Unless explicitly agreed upon otherwise in the project contracts, all rights and the property of the created works and of the interim results lie exclusively with Software Quality Lab Academy, regardless of the nature and extent of the service of the partner commissioned to create the work.

4.6 The service provider is obliged to respect intellectual property rights of third parties, in particular also software copyrights, and to indemnify and hold the principal harmless in case of violation of intellectual property rights of third parties.

4.7 As warranty period for consulting and documents, 6 months are agreed upon.
As warranty period for products, 24 months are agreed upon.

4.8 Within this period, the principal shall notify the service provider about any defects, and the defects shall be remedied by the service provider within a reasonable time, without additional costs.

4.9 Within this period, the service provider commits to remedying severe defects that obstruct (non-temporarily) or impede the use of the delivered work, within 3 working days after notification of the defects, and to remedying minor defects that do not lastingly obstruct or impede the use of the delivered work, within 14 working days after notification of the defects.

4.10 The service provider shall hold harmless the principal against any claims made by third parties against him on the basis of violations against intellectual property rights.

4.11 The warranty obligations and periods remain in force also in case of contract termination.

5. Legal status of the contracting parties

5.1 With the placing of order and order acceptance, both parties respectively declare that they are legally independent businesses and have registered the business properly and hold the necessary business licenses.

5.2 Within the cooperation, both partners keep their full independence. The cooperation does not establish a corporate relationship or a relationship similar to a corporate relationship between the parties.

5.3 Both partners pay their own taxes and social security charges that may occur on the fee within the scope of the commissioning of the other partner.

6. Obligations of the service provider

6.1 The service provider is obliged to collect in time any information from the principal that is needed for the performance of the contract.

6.2 The service provider, his employees and any consulted third parties are obliged to carry out the assigned tasks thoroughly, correctly, completely, expertly, faithfully and according to state-of-the-art technology.

6.3 Unless agreed upon otherwise, all documents and work results are delivered in non-locked electronic form on electronic storage media or by email, in a format which can be read and processed by the principal.

6.4 The service provider submits his work results in written form and shall submit a report to the principal in any case monthly and additionally by request. If an arranged deadline cannot be kept, the principal shall be informed immediately when this fact is known.

6.5 After the complete delivery of all commissioned services, the parties will issue a formal acceptance insofar as the completeness of the provided services is confirmed in writing by the principal. For individual projects, the parties can agree upon other acceptance regulations.
Interim acceptance does not count as acceptance of the services and therefore has no effect on possible claims of the principal (warranty, contract performance, etc.).

6.6 If the project services are not clearly pre-defined (e.g. fixed price project), but the invoicing is based on performed days/hours and the content definition in the ongoing project is made by the principal (project 'at cost'), acceptance of the services is accordingly effected automatically 60 days after

payment of the particular invoice, unless points that inhibit acceptance are announced by the principal within this period.

6.7 If executing persons are named in an individual order, the respective performance shall be executed personally by the named person. Calling in qualified employees of the service provider for handling specific areas is permitted. Calling in additional people in any case requires prior written permission by the principal. Any third parties consulted by the service provider, shall at any time comply with these EKB as well as the conditions of the respective individual order and possible other agreements and shall in particular be bound to strictest confidentiality.

6.8 The principal has the right to demand at any time a change of individual or all of the persons named in the contract. The service provider also has the right to change individual or all of the persons named in the contract, however, only after prior written consent of the principal or if a change is necessary because of the termination of the employment or because of prolonged absence of the assigned persons due to accident, illness or similar important reasons. In case of a change of persons, the service provider shall make sure that a respective knowledge transfer to a person who is at least equally qualified will take place, so that no additional costs or other expenses will accrue to the principal and no delays in the contract execution will occur.

7. Liability of the service provider

7.1 The service provider is responsible for the diligent compliance with his contractual obligations. The service provider is liable to the principal for all defects, damages as well as deficiencies of the performances also of his employees or any subcontractors and their employees. Liability for indirect damages is excluded for slight negligence.

7.2 The service provider is not liable for deficiencies that are based on incorrect information, documents or materials of the principal or on false interpretation or false usage of the generated work results, as well as damages and viruses, provided that the contractor took reasonable and adequate precautions for virus protection. Liability is also excluded if relevant changes in the work results are made by the principal. Furthermore, liability is excluded if the service provider or his subcontractors receive within the scope of a project instructions to be met by the principal or his subcontractors regarding procedures or implementation that lead to damages or deficiencies, as far as the service provider fulfilled his inspection and warning obligations regarding a possible damage on time. As far as permitted by law and without gross negligence or intent of the service provider or his subcontractors, the service provider or his subcontractors are not liable for disadvantages from lost profits, business interruption or any other merely financial loss emerged from the usage of the provided services and documents or from the fact that those are not or cannot be used.

7.3 Except for damages based on gross negligence or intent, personal injuries, damages based on violation of the confidentiality obligation, damages based on product liability or tort liability, the liability of the service provider is limited to a total amount of maximum Euro 100,000.- per year. In this case, liability for indirect damages is excluded.

7.4. If the services or parts thereof are transferred from the contractor to third parties or vicarious agents, the contractor must ensure that all agreements from the order and from these EKB-DL also apply to these third parties or vicarious agents. The contractor is fully liable for the actions of third parties or vicarious agents involved by him.

8. Publications

8.1 Press releases and any publications in which SWQLA is mentioned, shall be coordinated with SWQLA and approved in writing by SWQLA prior to any such publication.

8.2 Any statements made, written or orally, regarding services, references and projects that are handled within the scope of this partnership shall also be coordinated in advance with SWQLA.

9. Duty of confidentiality and safeguarding of interests

9.1 The service provider commits to refraining from anything that could have a negative impact on the reputation and the name of SWQLA.

9.2 The service provider commits to absolute secrecy regarding all company secrets and confidential information of SWQLA and their customers.

9.3 Confidential information shall always be treated confidentially, unless it was declared as not confidential by Software Quality Lab Academy, either explicitly through a written statement to the service provider or implicitly (e.g. through publication of this information by Software Quality Lab Academy in the media or in the open area of the SWQLA-website).
In any case (also if this information is not explicitly marked as confidential) the following confidential information about Software Quality Lab Academy or about customers of Software Quality Lab Academy is subject to this confidentiality obligation:
- Financial and strategic information
- Information about banking, legal and insurance matters
- Marketing and sales strategies, customer lists and business forecasts
- Any source code
- Any information that is stored on computers or data storage devices that are protected from access by third parties
- Electronic versions of training material
- Any customer-specific internal or confidential information that becomes known in the course of the partnership with regard to and in connection with a customer project
- Other information that by its nature has to be considered confidential (e.g. passwords and access authorization, brand and patent drafts, trade secrets in the usual sense, all personal data and data worthy of protection according to the data protection law).

9.4 The service provider is obliged not to use confidential information for other than the agreed purposes or to make it available to third parties unless with prior written agreement of Software Quality Lab Academy. This is particularly applicable to the notification for the purpose of negotiations, discussions and consultations with authorized persons.

9.5 The service provider will take any reasonable precautions to prevent and avoid unauthorized disclosure and usage of confidential information.

9.6 For each case of violation of this confidentiality obligation by the service provider, a contractual penalty of EUR 50,000.- is agreed upon (excluding objections regarding the amount of the contractual penalty).
If the damage resulting from a violation against the obligations in this contract exceeds this contractual penalty, Software Quality Lab Academy is free to sue also for the higher damage.

9.7 The confidentiality obligations resulting from this contract are unlimited and apply to confidential information and business secrets also after termination of the contract without any time limit.

10. Non-Solicitation

10.1 The service provider commits to non-solicitation towards SWQLA.

10.2 The service provider commits to not soliciting any employees of Software Quality Lab Academy and not employing or engaging in any other way directly or indirectly active or former employees of Software Quality Lab Academy in his own or directly affiliated companies (subsidiary companies/affiliated companies/parent companies in which the service provider holds a relevant share or exerts relevant influence) during the term of this contract and during the 12 months following the termination of this contract.

10.3 An exception is to employ staff by mutual written agreement between service provider and principal.

10.4 For each individual case of violation against this agreement, the payment of an indemnification amounting to the last 12 gross monthly salaries of the solicited employee (from the point in time when the employment relationship is terminated) is agreed upon (excluding objections regarding the amount of the indemnification).

10.5 In addition, Software Quality Lab Academy reserves the right to take possible further legal steps, in particular to seek an injunction.

11 Customer protection

11.1 The service provider commits himself to customer protection towards Software Quality Lab Academy as follows.

11.2 During the term of this contract or a possible longer-term individual project contract as well as during 18 months after the termination of the last ongoing contract, the service provider involved by Software Quality Lab Academy commits to not taking on any employed or self-employed, direct or indirect work with a company for which he worked on behalf of Software Quality Lab Academy or with which he was involved within the business development process or which he was informed about by Software Quality Lab Academy .

11.3 This also applies to companies that are affiliated with those companies (subsidiary or parent with a stake of at least 25% according to Stock Corporation Act (Aktiengesetz)) as well as to all other possible intermediary companies if the customer of Software Quality Lab Academy is not the final customer (e.g. if Software Quality Lab Academy is commissioned by another company and the service provider then works for the customer of the other company – in this case, the other company as well as their customer are covered by the customer protection).

11.4 For organizations with more than 1,000 employees and subsidiaries at several locations, the customer protection always refers to the largest organizational unit of the protected company which just does not exceed the limit of 1,000 employees.

11.5 The customer protection applies for a period of 9 months for the case that no contract has been concluded with the customer of Software Quality Lab Academy but the service provider has already received specific data about the customer or project information.

11.6 In this case, the period starts with the date of the last meeting with the customer or SWQLA.

11.7 For each individual case of violation against this agreement, the payment of an indemnification amount of EUR 30,000.- is agreed upon (excluding objections regarding the amount of the indemnification). If the damage resulting from a violation exceeds this agreed contractual penalty, Software Quality Lab Academy is free to sue also for the higher damage.

11.8 For non-temporary violations, the agreed contractual penalties apply for each commenced month of the violation.

11.9 If the service provider works for SWQLA in client acquisition and acquires clients on behalf of SWQLA, these services are compensated with commissions. Therefore, the customer protection for customers acquired for SWQLA against commission, lies with SWQLA.

12. Terms of payment

12.1 All prices are exclusive of value added tax (VAT).

12.2 Unless agreed upon otherwise in the individual project contract or another written agreement, billing is made in accordance with the arrangements made with the customer of Software Quality Lab Academy. Payments to the service provider are always due at the latest 7 days after receipt of the effected payment from the customer of Software Quality Lab Academy.

12.3 In case of a dispute, Software Quality Lab Academy is entitled to retain the invoiced amount until legitimacy has been clarified.

12.4 Default interest can be charged starting 3 months after the date of payment has been exceeded without cause. For the calculation of the default interest, the EURIBOR-rate of the due date of the payment is used.

12.5 If a default of payment, a payment reduction or non-payment caused by the customer leads to a payment loss in a customer project, this loss will be taken over by and split among the partners at the ratio of the project assignment shares, until responsibility has been clarified.

Once the question of responsibility has been answered, the project payment loss will be split among the partners in accordance with the ratio of responsibility in this project.

If none of the partners carries any responsibility (e.g. bankruptcy of the customer), the payment loss remains allocated at the ratio of the project assignment shares.

13. Fee, expenses, travel expenses

13.1 Unless explicitly agreed upon otherwise in the written offer/contract, overtime allowances, traveling times, travel costs and expenses are included in the offered rates and lump sums.

13.2 If it was agreed upon that travel costs and expenses are charged at cost, the following rule applies (unless agreed upon otherwise in writing in individual cases):
- For services for internal projects (that cannot be invoiced) of Software Quality Lab Academy, no travel expenses shall be charged for the operation site "Office of Software Quality Lab Academy" or within a 20 km radius.
- Travel expenses for a return journey, within the scope of a customer project which can be invoiced, are settled with a flat rate of EUR 1.00,- per kilometer distance between the operation site and the site of the service provider. The shortest route according to GoogleMaps shall apply. Included therein are all expenditures of time, costs and travel expenses of the service provider. This applies up to an arrival distance of 600 km. Beyond this distance, individual agreements are made.
- For overnight stays, the following applies: Hotels in a category of minimum 3 stars including breakfast are booked, whereby the maximum over night cost that is paid by SWQLA is limited to EUR 100.-
- As a general rule, billing of other expenses is made at cost only with prior coordination with Software Quality Lab Academy and on presentation of the original receipts.

14. Further contract terms

14.1 If any of the provisions of this agreement should be ineffective, this does not affect the validity of the rest of the agreement. In such a case, the invalid clause of the agreement shall be replaced by a corresponding effective clause that most closely approximates the economic intent of the ineffective clause.

14.2 Conduct which deviates from the agreement does not change or annul the rights and obligations thereof, nor does it establish new rights and obligations.

14.3 If new aspects of legislation or jurisdiction lead to a requirement of changes of this agreement, the contractual partners commit to making those changes without delay.

14.4 Unless selectively stipulated in a different way in this contract, the service provider declares explicitly that all legal successors and possible buyers of company shares are committed to the rights and obligations from this agreement.
Furthermore, the service provider must not transfer rights and obligations from this agreement to a third party without prior written consent of the principal.

14.5 Unless explicitly agreed upon otherwise in each individual contract, the service provider is not entitled to involve third parties – fully or partially – for fulfilling his obligations.

14.6 Offsetting claims of the service provider against those of the principal is excluded.

14.7 Unless agreed upon otherwise, only the law of the country where the business of the principal is registered applies, also if the contract is carried out abroad.

14.8 The parties agree that the courts having jurisdiction over the subject-matter and the place of the registered office of the principal shall be the exclusive legal venue for all disputes, if any.