

# GENERAL TERMS AND CONDITIONS FOR SERVICES

Edition: 08/2018

THIS END USER LICENSE AGREEMENT ("AGREEMENT" OR "EULA") IS A LEGAL AGREEMENT BETWEEN YOU (ALSO REFERRED TO AS THE "CUSTOMER") AND TRANSWARE AG („TRANSWARE ") THAT GOVERNS THE USE OF AND YOUR OBLIGATIONS FOR THE SERVICES EXECUTED UNDER THIS EULA.

This EULA shall supersede any additional or inconsistent provision in any deviating CUSTOMER terms and conditions, purchase order or elsewhere, and all such additional or inconsistent provisions are hereby expressly rejected and shall not be binding upon TRANSWARE. CUSTOMER hereby agrees that TRANSWARE's failure to specifically object to any such provision submitted by CUSTOMER shall not constitute an acceptance by TRANSWARE thereof nor shall it constitute an acceptance by TRANSWARE of any waiver of, or modification to, the provisions hereof.

## 1. Subject

The following standard conditions apply to any services and training offerings of TRANSWARE provided to customers.

- 1.1. TRANSWARE provides different kinds of services for customers. The parties shall agree on the individual performances and the extent of the services in an individual agreement (specification, service document). Such agreement may refer to rough and/or detailed concepts as well as specifications. TRANSWARE shall be obligated to deliver a specified work result only in the event such work result is specified explicitly in the individual agreement.
- 1.2. TRANSWARE services can be
  - a) Consulting services for the use of TRANSWARE products
  - b) Product installation
    - Services for Planning
    - Services for Organization
    - Software installation
  - c) Software configuration
- 1.3. TRANSWARE offers training services like
  - a) Software training for user
  - b) Training for system administrators
  - c) Tutorials and individual workshops

## 2. Terms and conditions for training services

### 2.1 Registration

Registration for training will be mandatory in writing. Registration of groups is reserved to individual offerings. Participants will receive a confirmation after TRANSWARE has received the registration. TRANSWARE reserves the right to reject a registration if the maximum number of attendees for a training has been reached or in case of other reasons. In case of fully booked training applicants will be informed about future dates for the training in question.

### 2.2 Cancellation by attendee

Cancellation of training registration is fully refunded until 4 weeks before the training. TRANSWARE refunds 75 % of the training fee when the registration is cancelled no less than 2 weeks before the training and 50 % when cancelled no less than 1 week before the training starts. In other cases cancellation is charged at 100% of the training fee. Cancellation notice is required in writing. Cancellation is not accepted after the training has started.

The attendee may name a substitute for the registered training. Cancellation fees are not charged when attendee's cancellation is due to TRANSWARE's conduct contrary to the terms of the agreement.

### 2.3 Cancellation by TRANSWARE

TRANSWARE reserves the right to cancel a training due to organizational reason (e.g. less than minimum registrations) until 14 days ahead of the training. Cancellations due to Force Majeur e.g. illness of the trainer will not constitute a default hereunder but in such case the training fee will be remunerated.

### 2.4 Rights on training documentation

Training documentation and handouts belong to the participant but may not be copied, processed, distributed or used for public broadcast without the written confirmation of TRANSWARE.

## 3. Cooperation of the Parties

### 3.1 Contact person

The customer shall name a contact person who shall have the power of attorney to make substantial decisions regarding TRANSWARE's performances or to entail such necessary decisions. The contact person shall especially establish the required contacts to the customer's individual departments, shall establish the required communication with the customer's departments and shall be responsible for the coordination of timetables, schedules and dates. TRANSWARE also shall name a contact person who coordinates professional and organizational interests as far as TRANSWARE's performances are concerned.

### 3.2 Working and technical equipment

The customer provides TRANSWARE with working and technical equipment needed to perform its services, in particular the office space and infrastructure as needed to perform services on customer's site as agreed upon.

### 3.3 Customer commits to use his best efforts to support TRANSWARE performance of services.

## 4. Confidentiality

The parties commit to strictly adhere to non-disclosure and confidentiality of all information the parties exchange according to specific agreements the parties may have agreed upon.

## 5. Compensation

5.1 Compensation for services is ruled by the agreements concluded between the parties in a given case. Statutory taxes shall be added to any price and compensation.

5.2 Additional time and traveling expenses for on-site service and and further services beyond the offering shall be invoiced according to actual costs unless the parties have agreed upon otherwise.

5.3 TRANSWARE compensation for training comprises training documents and the may include the use of TRANSWARE facilities. Participants bear all expenses for travel and accommodation for the training.

5.4 Payments shall be due with the date of the invoice if not agreed on otherwise. In the event the customer is in default for more than 30 days after the date of the invoice TRANSWARE shall be entitled to charge

an interest rate of 8 % above the current statutory basis interest rate. Further claims for damages shall remain unaffected.

## 6. Liability

TW shall be liable for losses regardless of the legal foundation, including default, defective performance or non-contractual liability

- i. without limitation of the amount of damages for willful intent or gross negligence by TW or its executive employees, for gross organizational fault, and regardless of the degree of fault in cases of bodily injury for which TW is responsible, as well as in the absence of software properties warranted by TW.
- ii. limited to the typical foreseeable loss under the contract in cases of culpable breach of material contractual duties, as well as in cases of willful intent or gross negligence by vicarious agents of TW, insofar as case i. does not apply.
- iii. limited per loss to the contractual remuneration in cases of default or initial impossibility, insofar as cases i. or ii. do not apply accordingly.
- iv. Further damages shall be excluded.

Liability under product liability law remains unaffected.

The customer must accept a contributory fault on its part. If data are lost, TW shall be liable for no more than the costs of reproducing data from backups, as well as for reconstructing data which would have been lost even if backups had been produced regularly and correctly by the customer. The customer is responsible for producing the backups.

## 7. Miscellaneous

- 7.1 Rights and duties under this contract shall not be assigned without the written consent of TRANSWARE.
- 7.2 The customer shall be entitled to a set-off only with undisputed or non-appealable claims.
- 7.3 The present agreement shall be governed by the German law. The UN Convention on the International Sale of Goods (CISG) shall be excluded.
- 7.4 Place of jurisdiction shall be the location of TRANSWARE.
- 7.5 Changes and modifications of this contract shall only be in writing.
- 7.6 Should one of the provisions of this contract be or become invalid or unenforceable in whole or in part, the remaining provisions of this contract shall maintain their validity. This shall also apply for any loophole in the contract. In the place of the invalid or unenforceable provision or to fill the loophole, a reasonable provision shall apply which insofar as legally possible comes closest to fulfilling the original intention of the parties to the contract had they considered this point upon conclusion of the contract.