

## **WEFRA TERMS AND CONDITIONS**

### **PART A: GENERAL PROVISIONS**

#### **1. Scope**

- 1.1 These general terms and conditions (hereinafter also ‘terms and conditions’) of WEFRA LIFE CORPORATE GmbH, the associated specialised agencies WEFRA LIFE SOLUTIONS GmbH, WEFRA LIFE MEDIA GmbH, WEFRA LIFE INTERNATIONAL GmbH, WEFRA LIFE INNOVATION HUB GmbH, WEFRA LIFE VENTURES GmbH, dk Life Science Communications GmbH and HEALTHY PROGRAMMATIC GmbH (hereinafter also ‘WEFRA’ individually and collectively) shall, in the scope of its parts A and B, be integral to every quotation from WEFRA and shall apply to any contracting of and any contract with WEFRA. More specialised provisions in part B of these terms and conditions shall have precedence over more general ones in part A.
- 1.2 For supplies and services contracted by WEFRA, the applicable provisions shall be the special terms and conditions for contracts for the procurement of third-party supplies and services in part C of these terms and conditions.
- 1.3 Contradictory or deviating general terms and conditions, terms of purchase or other terms (hereinafter also ‘terms’) of the Client, Counterparty, Contractor or other Business Partner (hereinafter also ‘Counterparty’; WEFRA and the Counterparty also ‘Parties’ collectively) shall only become integral to the contract if the Parties have agreed to them in writing. Deviating terms of the Counterparty, which may, for example, be included in a confirmation from the Counterparty, shall also not be effective even if WEFRA does not object to them and performs the services with knowledge of such terms.
- 1.4 These terms and conditions shall apply exclusively to business entities within the meaning of section 14 of the German Civil Code and legal entities under public law, including ones with access to special public funds.
- 1.5 More specialised provisions of other current or future terms and conditions of WEFRA shall have precedence over more general ones in these terms and conditions. Provisions in written contracts concluded between the Parties shall always have precedence over these terms and conditions if and to the extent they deviate from these terms and conditions.

## **2. Specification and performance of service**

- 2.1 Quotations from WEFRA shall generally be non-binding, and only an order confirmation or the supply or service (supply/supplies and service(s) hereinafter also 'service(s)') shall establish a corresponding contract (hereinafter 'contract').
- 2.2 Specifics about the contents and scope of the WEFRA services to be performed for the Counterparty shall be provided in the contract concluded between the Parties. In the absence of another agreement or details in the contract, WEFRA shall owe services of a medium nature and quality.
- 2.3 Handover shall take place at the principal place of business of WEFRA as a rule. WEFRA shall therefore normally fulfil its contractual supply obligation once the respective product is dispatch-ready or the respective service has been performed. The Counterparty shall bear the risk associated with transmission (e.g. damage, loss or delay), no matter what medium is used for the transmission. This shall also apply if partial supplies are delivered.
- 2.4 Times and periods agreed for services by the Parties shall only be binding when the Counterparty has duly discharged its cooperation obligations according to section 3.
- 2.5 WEFRA shall be entitled to engage subcontractors for the performance of its services (hereinafter also 'Contractors'). It shall furthermore be entitled to represent the Counterparty using the power of attorney granted to it in the contract by the Counterparty based on the contents and scope. In the absence of another agreement, the contracting of Contractors shall be in the name of the Counterparty and on its account.
- 2.6 Any cancellation of the contract by the Counterparty shall only be possible in exceptional situations, in writing and specifying the WEFRA order confirmation number, and shall only take effect when WEFRA has given written confirmation of the cancellation. If WEFRA has contracted Contractors for the performance of the service in accordance with section 2.5, the Contractor's terms and conditions for cancellation shall apply. The Counterparty shall be responsible for any costs of delayed cancellations.

## **3. Cooperation of the Counterparty**

- 3.1 Insofar as it is only possible for WEFRA to perform its service when all cooperation and material provision obligations have been duly discharged by the Counterparty, e.g. obligations in relation to necessary information, documents, data, approvals and authorisations (hereinafter also 'cooperation'), or when the Counterparty's cooperation has been stipulated in the contract, the Counterparty shall be required to carry out the corresponding cooperation. The Counterparty shall carry out the required cooperation, and in particular do so fully and in a timely fashion.

- 3.2 WEFRA shall be entitled to judge if the Counterparty's cooperation is correct and complete. Unless otherwise explicitly arranged, WEFRA shall not be required to check the cooperation for incorrectness. If WEFRA has gained knowledge of incorrectness or incompleteness, WEFRA shall advise the Counterparty of this.
- 3.3 If WEFRA needs to perform services again due to incorrect, incomplete, untimely or subsequently modified cooperation by the Counterparty, or if the service becomes delayed because of this, the Counterparty shall be responsible for the additional expenditure that arises.
- 3.4 WEFRA shall, after setting a reasonable deadline, be entitled to terminate the contract and bill for all work arising up until that time in accordance with section 2.2, second sentence, if the Counterparty defaults on its cooperation or acceptance of the service quoted for. In addition, the risk of deterioration and destruction in accordance with section 2.3 shall pass to the Counterparty upon notification of supply. WEFRA claims to reimbursement of the additional expenditure and loss arising from this shall remain unaffected.
- 3.5 For delays, service deviations from the agreements made, loss and other disadvantageous effects due to untimely cooperation by the Counterparty, WEFRA shall not be held liable insofar as it has not itself breached an obligation.

#### **4. Remuneration/terms of payment**

- 4.1 The agreements made in the contract shall generally apply to the remuneration. Unless otherwise agreed, the respective and currently applicable hourly rates of WEFRA as specified in its price schedule shall apply.
- 4.2 Service specifications modified by the Counterparty after concluding the contract shall require an additional written agreement by the Parties. If such an agreement is not made and WEFRA nonetheless performs additional services, these shall be remunerated by the Counterparty in accordance with the price schedule based on the time and material taken.
- 4.3 Agreed prices shall be net prices subject to the additional applicable value added tax. Levies for artist social security, duties or other fees shall be charged to the Contractor along with the costs of materials and other expenses.

- 4.4 Unless otherwise agreed in the contract or differently specified on the invoice, WEFRA invoices shall be due for payment in full eight (8) days after the invoice date. For accounts receivable from business entities, WEFRA shall be entitled to charge default interest in the statutory amount from the due date.
- 4.5 WEFRA shall retain title to the services performed by it, or retain the licence to be transferred to it for them, until full payment of the remuneration owed for the respective services. If the Counterparty defaults on a payment in full or in part for more than two (2) weeks, WEFRA shall, without prejudice to further rights, be entitled to enforce all rights under the preceding retention of title, make all amounts receivable from the Counterparty due for immediate payment and withhold further services.
- 4.6 Offsetting against amounts payable to WEFRA shall only be permitted for amounts payable under the same contractual relationship that are undisputed and upheld by legal proceedings, or have been recognised by WEFRA. The enforcement of a right of retention based on counter-claims that are disputed or not upheld by legal proceedings shall be prohibited if these claims are not from the same contractual relationship.

## **5. Warranty/liability**

- 5.1 The Counterparty shall review the services received from WEFRA immediately after receipt and give notice of any defects immediately after discovering them. If the immediate review or notification of defects is omitted, the Contractor shall have no claims in relation to obvious defects and subsequent defects. If there is a defect for which WEFRA is responsible, WEFRA may, at its discretion, remedy the defect or supply a replacement.
- 5.2 Claims to damages, no matter the legal grounds, shall be limited to the typical loss foreseeable at the time of concluding the contract in cases of negligent conduct by WEFRA, its legal representatives or its agents. They shall be prohibited in cases of slightly negligent conduct, unless they pertain to the breach of a core obligation that is so material that the achievement of the contract's purpose is jeopardised. The above limitation and disclaimer of liability shall not apply to grossly negligent or wilful conduct, to warranty-based claims, to injury to life, body or health; or to claims arising from the German Product Liability Act.
- 5.3 It shall not be the task of WEFRA to assess legal issues, especially those in the fields of copyright, competition and trademark law. For this reason, WEFRA shall in particular not be held liable for the legal permissibility of the content and/or design of its services. The same shall apply to liability for errors resulting from documents provided by the Counterparty. This shall apply in particular when WEFRA has advised the Counterparty of legal concerns when performing the contract and the Counterparty has nonetheless insisted on the contract's performance.

5.4 If third parties bring suit against WEFRA to cease and desist or for damages or similar due to the design and/or content of its services, the Counterparty shall indemnify WEFRA for the liability insofar as the suit is not based on a breach of obligation by WEFRA for which it is liable.

5.5 Counterparty claims against WEFRA under warranties or to damages shall expire within one year of the commencement of the statutory limitation period.

## **6. Licences, copyrights, title**

6.1 All licences and copyrights shall generally remain with WEFRA. WEFRA shall grant to the Counterparty licences in accordance with the contract or a licence agreement to be concluded by the Parties separately. Any usage in excess of this, including editing in particular, shall require written approval by WEFRA. All licences shall remain with WEFRA until an agreement takes effect in the contract or a separate licence agreement which shall require written form to be effective.

6.2 If WEFRA's services are published, the Counterparty shall be required to name WEFRA as the originator in the manner customary for the industry. WEFRA shall be entitled to present and use the name and logo of the Counterparty as a testimonial.

6.3 WEFRA shall be entitled to use the services performed by it as part of its own marketing, including on the internet and in connection with competitors.

6.4 All rights to tools and methods, such as presentation, preliminary work, drafts, concepts, layouts, source code, raw data, image files and raw files as well as other WEFRA tools and products of work, that are not granted to the Counterparty under section 6.1 shall remain with WEFRA; an obligation to release these rights shall not exist. The Counterparty may only demand release when this is necessary for the fulfilment of the contract's purpose and the release has been explicitly agreed in return for payment of separate remuneration. WEFRA shall not be subject to a retention obligation either. This shall also apply to the use of the ideas underlying the above tools and methods if they have not been expressed in the Counterparty's advertisements thus far. The acceptance of a presentation fee shall not constitute approval of usage of WEFRA's related services either.

6.5 If WEFRA's Counterparty provides cooperation or other tools used by WEFRA for the fulfilment of its performance obligation, the Counterparty shall warrant that third parties do not have rights to them that might impede the fulfilment of WEFRA's performance obligations and shall indemnify WEFRA accordingly in the event of claims by third parties.

## **7. Data protection/confidentiality**

- 7.1 The Counterparty confirms that personal data transmitted to WEFRA by it or by third parties pursuant to its instructions has been processed in accordance with the relevant data protection provisions, in particular the European General Data Protection Regulation (GDPR) and German Federal Data Protection Act (BDSG), that any consent required from data subjects is present and that the processing of the data by WEFRA as part of the work assigned to WEFRA does not breach any of these provisions or exceed the limits of the consent granted. If notified, the Counterparty shall conclude a processing agreement with WEFRA in accordance with GDPR Art 28.
- 7.2 The Counterparty shall treat as confidential all information that it receives through WEFRA in connection with the contract, the findings obtained or derived from this information and the documents prepared based on the information or containing the information, especially presentations, tables, worksheets and concepts of WEFRA (hereinafter 'confidential information'), including beyond the end of the contractual relationships, and shall use it only as part of the contractual relationship. The Counterparty shall protect the confidential information against access by third parties and, unless necessary for the achievement of the contract's purpose, shall not record it, make it accessible to third parties without the other Party's approval or utilise it for commercial ends. Third parties for these purposes shall not include consultants and contractors of the Counterparty which are bound to secrecy based on professional obligations or which have made a written confidentiality undertaking to the Counterparty previously.
- 7.3 The Counterparty may only release the confidential information to employees to the extent necessary and shall ensure that it is kept secret by the respective recipient through corresponding agreements.
- 7.4 Section 5 of the German Trade Secrets Act shall not be affected by this.
- 7.5 The requirement for confidentiality shall not apply to information
- (i) that is general knowledge or publicly accessible at the time of disclosure or that becomes general knowledge or publicly accessible at a later time without the Counterparty being responsible for this;
  - (ii) of which the Counterparty gains knowledge through channels other than WEFRA and without breaching contractual or statutory confidentiality obligations; or
  - (iii) that the Counterparty has developed independently without utilising WEFRA's confidential information.
- 7.6 Furthermore, it shall not apply if the Counterparty is required to disclose confidential information due to a statutory obligation or final or unappealable order by a

government authority or court; the Counterparty shall communicate this to WEFRA in a timely fashion before the disclosure to the extent permitted and possible.

- 7.7 The Counterparty shall pay a penalty of €5,000.00 (five thousand euros) to WEFRA for each breach of the above obligation. The enforcement of further claims shall not be excluded through this payment, though the penalty shall be counted towards them.

## **8. Miscellaneous**

- 8.1 German laws, excluding the provisions of the CISG and standards that involve referral to other jurisdictions, shall apply.
- 8.2 The place of performance for supplies and payments shall be WEFRA's principal place of business.
- 8.3 Sole venue for all disputes between the Parties shall be that for the principal place of business of WEFRA where the Counterparty is a merchant or legal entity under public law, including one with access to special public funds.
- 8.4 In instances of force majeure, i.e. non-company events caused externally by the forces of natural elements or by the actions of third parties which, according to human judgement and experience, are unforeseeable, are unable to be prevented or made harmless by economically tolerable means, even with the diligence that can reasonably be expected in the given situation; and are not to be accepted by WEFRA due to their frequency, the service and supply dates periods shall be extended for the duration of these events. Examples of force majeure events shall include natural catastrophe, fire, war, terrorism, pandemic, epidemic and strike.
- 8.5 If individual provisions of this agreement are or become invalid or unenforceable, the validity of the remaining provisions shall not be affected by that. An invalid or unenforceable provision shall, through supplementary interpretation, be substituted with an arrangement that most closely approximates the purpose of the agreed provision and the presumed will of the Parties. This shall apply accordingly to the presence of a gap or omission.
- 8.6 Side agreements or additions to or deviations from these terms and conditions shall require written form. This shall also apply to restrictions or waivers of written form itself.
- 8.7 WEFRA shall be entitled to modify these terms and conditions unilaterally where this is necessary for adaptation to a changed legal or technical environment. WEFRA shall inform the Counterparty of the corresponding adaptation and communicate the content of the modified arrangement. The modification shall be integral to the contract if the Counterparty does not object to it in written form within six (6) weeks of receipt of notice of the modification (decided by the date on which WEFRA receives

the objection). The modified terms and conditions shall take effect for the Counterparty or Contractor on the business day following the aforementioned six-week period.

- 8.8 The above provisions shall not apply to modifications that modify the core of the performance obligations and that change significantly the equivalence between the service performed and consideration tendered. The latter shall only be permitted with the explicit approval of the Counterparty.

## **PART B: SPECIAL PROVISIONS**

### **9. Special terms and conditions for supplies and services from contractors**

- 9.1 If WEFRA only passes on the services of Contractors to the Counterparty, its liability shall be limited to negligence in its selection of Contractors.
- 9.2 If WEFRA only passes on the supplies of Contractors to the Counterparty, its liability and warranty shall be limited to that of the Supplier.
- 9.3 If requested, WEFRA shall assign to the Counterparty any corresponding claims against the upstream Suppliers.

### **10. Special terms and conditions for ongoing services from WEFRA**

- 10.1 If WEFRA provides services for the Counterparty on an ongoing basis, termination shall be possible with a notice period of three (3) months counted from the end of the calendar year, though not before the first full year of the contract ends.
- 10.2 If the Counterparty defaults on due payments in full or in part for more than four (4) weeks, if insolvency proceedings are commenced for the assets of the Counterparty or if the commencement of such proceedings is refused due to a lack of assets, or if the Counterparty breaches material provisions of the Parties' contractual agreements and does not remedy these breaches within a reasonable time despite a warning, WEFRA shall be entitled to extraordinary termination. WEFRA's further statutory termination rights shall remain unaffected.
- 10.3 Both Parties shall be entitled to terminate the contract extraordinarily for good cause.
- 10.4 Notice of termination shall be given in writing.

### **11. Special terms and conditions for consulting services from WEFRA**

- 11.1 WEFRA shall fulfil its contractual obligations to the best of its knowledge and belief, and shall act with care when providing consulting services.



11.2 WEFRA's consulting services shall be deemed performed when the necessary analyses and the conclusions and recommendations arising from them have been developed and confirmed to the Counterparty by WEFRA and sent to the Counterparty. Whether or when the conclusions and recommendations are implemented shall be irrelevant.

11.3 As part of its cooperation, the Counterparty shall be required to present to WEFRA all documents necessary for the fulfilment of the consulting services and to inform WEFRA of all events and circumstances that are relevant to the fulfilment of its obligations, in good time and without awaiting a specific request to do so.

## **12. Special terms and conditions for online services from WEFRA**

12.1 The Counterparty shall be required only to submit third-party data to the online databases maintained by WEFRA or otherwise disclose it to WEFRA in accordance with the applicable legal provisions, in particular those under copyright, data protection and competition laws and, if necessary, not without the approval of the respective right holders.

12.2 If the Counterparty provides WEFRA with contact information for the purpose of sending newsletters or other offers, e.g. by email, the Counterparty shall be responsible for the recipients consenting to the forwarding of their data to WEFRA and to receiving the corresponding messages.

12.3 If the Counterparty does not fulfil its obligations under section 12.1 or 12.2, it shall indemnify WEFRA, upon first being requested, for any claims made by third parties or government actions taken on this basis.

12.4 With regard to the My Medical Education (MME) database platform, the Parties shall refer to the terms of service that apply separately in this respect.

## **PART C: SERVICES FROM CONTRACTORS**

### **13. Special terms and conditions for the procurement of supplies and services from contractors**

13.1 The following provisions of this part C of the terms and conditions shall be integral to every agreement between WEFRA and Contractors (see section 2.5) based on which WEFRA procures supplies and services from the Contractor (hereinafter also 'agreement').

13.2 The Contractor's supplies and services shall always reflect the state of the art at a minimum as well as the samples, models and other templates presented to the Contractor by WEFRA. The content and scope of the Contractor's supply and service obligation shall otherwise be based on the agreement.

- 13.3 The Contractor shall be obliged to check any preliminary work provided to it (e.g. print data, print PDFs, etc.) before use and, if necessary, to notify WEFRA of any errors or defects that may exist. In addition, it shall check that its supplies and services are free of defects before providing them to WEFRA. If requested, it shall additionally present corresponding reference samples to WEFRA. The Contractor shall furthermore be obliged to retain the data and intermediate products used for this purpose for a period of at least one (1) year after supply or the end of the performance of the service, unless contractual or binding statutory provisions provide otherwise. The Contractor may only use the objects provided to it by WEFRA for the purpose of performing the agreement. Title to them shall remain vested in WEFRA at all times. The Contractor shall store them carefully and return them to WEFRA without undue delay if requested.
- 13.4 Unless otherwise agreed, the Contractor shall be responsible for obtaining undertakings from persons who are required to be involved in production and are subject to its instructions (e.g. models), although this must be agreed with WEFRA beforehand. The same shall apply to the procurement of any aids that may be necessary (e.g. props). The agreed remuneration shall generally cover all costs and expenses incurred in connection with the agreement, e.g. remuneration or costs of assistants, models, props, consumables, technical effects, recording locations, travel and accommodation costs, etc.
- 13.5 If formal acceptance is required based on the nature of the agreement, this shall only be deemed to have occurred when WEFRA has given written recognition of the service being compliant with the agreement. WEFRA's warranty rights shall remain unaffected. If supplies or services are deemed unacceptable, the Contractor shall take them back for subsequent performance or improvement without undue delay after any notice of defects.
- 13.6 The Contractor shall inform WEFRA in writing without undue delay if there is a risk of delay. WEFRA shall furthermore be entitled to withdraw from the agreement if it is foreseeable that the service will not be performed on time and there is a consequent risk of this hindering production at WEFRA and/or its Counterparty.
- 13.7 WEFRA's defect and damages claims shall expire in accordance with statutory provisions.
- 13.8 The Contractor's licences and neighbouring rights under copyright laws in respect of the supplies and services as well as in respect of the intermediate products and materials used for the performance of the agreement shall pass to WEFRA for exclusive use without any restrictions on time or place upon payment of the remuneration specified in the agreement. They shall entitle WEFRA to all initial and repeated marketing and non-marketing exploitation, to all forms of usage known or unknown, to reproductions and to the transfer of licences, including exclusive ones,

to third parties. The Contractor declares that it waives the presentation of its name in all forms of usage of the supplies and services.

- 13.9 The Contractor warrants that there exist no third-party rights connected to its supplies and services that might impair the transfer of rights and/or the agreed use of the supplies and services (e.g. the personality rights of persons in images). In particular, it shall obtain the written consent of any third parties concerned, under which the publication and use of the supplies and services in the intended scope is ensured and claims of any kind based on third-party rights, especially copyrights and rights to a person's own image, are prohibited.