

## WebConcern Terms and Conditions

### 1. Definitions

**Consultancy Services:** Services provided by WebConcern to the Customer, such as development, creating templates for the Customer, and applying software, excluding SaaS services and Support services.

**Customer:** The contractual party of WebConcern for the provision of Services.

**Customer Data:** Data owned by the Customer as used in the SaaS service, as further defined in Article 12.4.

**Defect:** A malfunction in the SaaS Services provided by WebConcern (not caused by incorrect configuration or failure to follow usage instructions in the Documentation) that significantly impairs the functionality of the SaaS Services.

**Documentation:** The current version of the user manuals for the SaaS Services as issued by WebConcern from time to time via its website or directly to the Customer.

**WebConcern:** WebConcern B.V., a Dutch company registered with the Chamber of Commerce under number 65675827.

**Intellectual Property Rights:** All copyrights, patents, database rights, trademarks, trade names, designs, know-how, confidential information, and similar rights (whether or not registered).

**Quotation:** Written quotation issued by an authorized representative of WebConcern for the provision of Services to the Customer.

**Assignment:** Assignment accepted by the Customer.

**SaaS Services:** The provision of software installed, managed, and hosted by the supplier for use by the Customer via the internet.

**Services:** All Services provided by WebConcern to the Customer.

**Support Services:** The standard support services provided to the Customer regarding the SaaS Services provided by WebConcern, as further described in Article 5.

### 2. Applicability of General Terms and Conditions

**2.1 Introduction:** These are the general terms and conditions of WebConcern. They apply to all Services of WebConcern, all Quotations issued by WebConcern, and all agreements entered into by WebConcern with the Customer regarding the provision of Services by WebConcern.

**2.2 Unilateral Amendment Clause:** WebConcern has the right to unilaterally amend these general terms and conditions, of which WebConcern will notify the Customer.

**2.3 Quotations and Assignments:** The Customer may accept Quotations issued by WebConcern by signing and sending them back to WebConcern or by accepting them online (if the Assignment is offered online, such as on websites, app stores, or in apps). Offers for Assignments expire if not accepted by the Customer within 30 days from the date they are issued, unless expressly stated otherwise in the Offer. Offers made by WebConcern online may be revoked without prior notice. Clear typographical errors and mistakes in Quotations are not binding on WebConcern, and WebConcern may reject or terminate Quotations that contain such errors.

**2.4 Terms for WebConcern SaaS Services:** If the Quotation agrees that WebConcern will provide Services related to SaaS Services that WebConcern sells and delivers to the Customer, then the following clauses 3, 4, and 5 apply to the provision of such SaaS Services and the associated Support Services from WebConcern to the Customer.

**2.5 Terms for SaaS Services from Third Parties:** If the Services to be provided under the Assignment are limited to Services provided by WebConcern related to SaaS Services purchased by the Customer under a direct agreement between the Customer and a third-party provider of such SaaS Services, then the following clauses 3, 4, and 5 do not apply to such SaaS Services. WebConcern is in no way responsible or liable for such SaaS Services, their compliance, or proper functioning. In such cases, it is the sole responsibility of the Customer to ensure they obtain the necessary rights to use the SaaS Services and to enable WebConcern to access and use such SaaS Services to allow WebConcern to offer its consultancy services regarding them.

### **3. WebConcern SaaS Services**

**3.1 Hosting and Technical Management:** WebConcern's SaaS Services include standard hosting and technical management of the software by WebConcern in a secure data center operated by a third party, located in Europe. The software is implemented by WebConcern and made available to the Customer via the internet. The Customer can then connect to the software via the internet using up-to-date software browsers to configure the software, load their own data into the software, and use the SaaS Services.

**3.2 Service Obligation:** WebConcern will ensure that the SaaS Services are delivered professionally and will strive to ensure that they function substantially in accordance with the Documentation for the duration of the Customer's subscription to the SaaS Services. WebConcern does not guarantee that the SaaS Services will function without errors or interruptions but commits to addressing Defects in the SaaS Services in accordance with Clause 5.

**3.3 Development of SaaS Services:** The SaaS Services provided by WebConcern may be updated, modified, and upgraded from time to time by WebConcern. For significant changes to the SaaS Services that may have a foreseeable substantial impact on the Customer, WebConcern will (where reasonably possible) provide at least one month's notice in advance (via email or by posting a message in the administration environment of the SaaS Services)

to allow the Customer to prepare for such a change. WebConcern will not charge the Customer extra fees for additional features that may become available through such changes unless these relate to new future features or properties for which WebConcern charges other users of the SaaS Services separately. However, separately charged new features will only be charged to the Customer once the Customer has confirmed their desire to use such new features by signing an Order that agrees on the relevant additional costs.

#### **4. License Terms WebConcern SaaS Services**

**4.1 Usage Restrictions:** The Customer may only use the SaaS Services provided by WebConcern for the scope of use expressly agreed upon in the Assignment. Any use outside the agreed scope by the Customer without prior agreement in an Assignment grants WebConcern the right to charge the Customer for the additional use at WebConcern's standard rates applicable for such extended use at the time. The Customer may not copy or use any part of the SaaS Services, explicitly including software, concepts, know-how, or other proprietary aspects of the SaaS Services that fall outside the scope of the SaaS Services. The Customer must adhere to the usage instructions and guidelines in the Documentation when using the SaaS Services and may not use the SaaS Services in any way that impairs or disrupts the integrity of the proper operation of the SaaS Services and the data stored therein.

**4.2 No Use for/By Third Parties:** The Customer may only use the SaaS Services for its own internal business purposes and may not make the SaaS Services available to third parties by means of sale, rental, sublicensing, timesharing, or on any other basis, nor use the SaaS Services for the benefit of third parties on any basis, including by reselling them or combining them with services that the Customer provides to third parties.

**4.3 Customer Responsibility for Legal Use:** The Customer is fully responsible for all use of the SaaS Services, all data uploaded to and distributed via the SaaS Services, and all related instructions provided to WebConcern in configuring and using the SaaS Services. The Customer must ensure that such use complies with applicable law, does not infringe upon third-party rights (including intellectual property rights), and does not constitute a tort against third parties. Furthermore, the Customer agrees not to use the SaaS Services for sending obscene, threatening, defamatory, fraudulent, or otherwise unlawful or offensive messages that could harm (the reputation of) WebConcern and its licensors.

**4.4 Right to Suspend Services:** WebConcern reserves the right to block any use of the SaaS Services provided by WebConcern, including the sending of messages via the SaaS Services that WebConcern reasonably believes violate these terms, applicable law, or any third-party rights.

**4.5 Ownership of SaaS Services:** All Intellectual Property Rights in or relating to the SaaS Services, and any modifications thereof, including modifications proposed or requested by the Customer (except for Customer Data), are and shall remain the exclusive property of WebConcern and its licensors. It is agreed that Customer Data is the property of the Customer, as further specified in Article 12.4 below.

**4.6 Return of Customer Data:** Upon termination of the Services, WebConcern will allow the Customer to download any copies of Customer Data available for download from the SaaS Services for up to one month after such termination.

**4.7 Third-Party License Terms:** If the parties agree in the relevant Assignment that the SaaS Services provided by WebConcern will be based on or utilize standard SaaS services and/or standard software tools from a third-party licensor to WebConcern, then the relevant license and usage terms for such Third-Party Tools as imposed by the third-party licensor – and

shared by WebConcern with the Customer – will apply to their use, in addition to and where relevant, in deviation from these terms of WebConcern. For clarity: the fees owed for the use of Third-Party Tools are included in the fees agreed upon for the SaaS Services to be provided by WebConcern and are not separately owed by the Customer unless explicitly agreed otherwise in the relevant Assignment.

## **5. Support Services for WebConcern SaaS Services**

**5.1 Support Services - General Support:** The support services included in the subscription fees for WebConcern's SaaS Services include the following:

- a. Access to the Documentation for the SaaS Services and self-help tools (such as FAQ lists, white papers, video materials, sample materials, and use cases) as made available from time to time via the SaaS Services to the Customer;
- b. General usage support via email and phone (during Dutch business hours, for up to 2 hours per month or another maximum number as may be agreed upon in the Assignment) to answer reasonable usage-related questions regarding the SaaS Services related to aspects not covered in the Documentation and other self-help tools provided by WebConcern; and
- c. Proactive monitoring by WebConcern of key performance metrics of the SaaS Services to help prevent Defects and identify Defects that occur in the SaaS Services.

**5.2 Support Services - Defects:** WebConcern will make reasonable efforts to address and resolve Defects within a reasonable time frame. If a Defect effectively prevents the Customer's access to the SaaS Services or the use of significant parts of the functionality of the SaaS Services, WebConcern will make all reasonable efforts to offer at least a temporary alternative working method so that the Customer can resume using (the affected part of) the SaaS Services, with the Customer temporarily accepting an alternative working method and reduced functionality.

**5.3 Customer Responsibilities for Receiving Support:** The Customer must ensure that employees contacting WebConcern for general support and/or to report Defects are properly trained to operate the SaaS Software and have consulted the Documentation for the SaaS Services before contacting WebConcern for support. When reporting a Defect, the Customer must provide all relevant information and cooperation to WebConcern to enable WebConcern to identify and reproduce the Defect. Resolving issues caused by failure to follow usage instructions as outlined in the Documentation, by uploaded materials that do not comply with the related technical requirements, or with regard to the recovery of Customer data, is not part of the standard Support Services, and assistance with these matters may be separately charged by WebConcern as Services to the Customer.

## **6. Consultancy Services**

**6.1 Consultancy Services:** All forms of Services provided by WebConcern other than the SaaS Services and related standard Support Services as outlined above, such as general assistance with usage, help with implementing and customizing the settings of SaaS Services for the Customer, and assistance with uploading and customizing Customer data for use with the SaaS Services, are Services not included in the subscription fees for SaaS Services provided by WebConcern and will be charged separately to the Customer.

**6.2 Intellectual Property Rights:** WebConcern shall acquire all Intellectual Property Rights, excluding the Customer Data, arising in connection with the Services. To the extent

necessary, these Intellectual Property Rights are hereby transferred by the Customer to WebConcern, effective as of the moment the Intellectual Property Rights arise. This transfer is hereby accepted by WebConcern.

**6.3 Deadlines and Dates:** All delivery dates and other deadlines for Consultancy Services mentioned or agreed upon by WebConcern are established based on the information known to WebConcern at the time the dates or deadlines were agreed or communicated and may be subject to changes. WebConcern will make reasonable efforts to meet the agreed delivery dates and other deadlines, subject to the timely fulfillment of the Customer's obligations.

**6.4 Fees for Consultancy Services:** Unless explicitly agreed otherwise, Consultancy Services will be charged based on time and materials at WebConcern's standard hourly rates or such hourly rates as agreed in the relevant Assignment. Budget estimates provided for performing specific activities are (unless explicitly agreed otherwise) non-binding estimates and not fixed prices. WebConcern will only spend time outside the agreed budget with prior written consent from the Customer. Agreed fixed prices for Services related to specific activities are subject to the assumptions and conditions set out in the Assignment and on the general assumption that the Customer has provided accurate, up-to-date, and complete information on which WebConcern can base its fixed price quote, and that the Customer will provide full cooperation in accordance with Section 6.5 below. For Consultancy Services with a fixed price relating to designing or customizing the look & feel, branding, or other elements subject to subjective approval by the Customer, one round of corrections is included in that fixed price. Additional iterations to refine such aspects of the relevant deliverables are not included in the fixed price and may be charged separately by WebConcern.

**6.5 Customer Cooperation:** The Customer will provide WebConcern with all information and cooperation reasonably required to fulfill its obligations in a timely manner. The Customer will ensure that all Customer data provided for inclusion in the SaaS Services meets the relevant technical standards as outlined in the Documentation. If Consultancy Services are provided in relation to SaaS Services purchased by the Customer under a direct agreement between the Customer and the third-party provider of those SaaS Services, the Customer is responsible for the timely and correct cooperation of that third-party provider to enable WebConcern to carry out the Consultancy Services.

**6.6 Quality Commitment for Consultancy Services:** WebConcern will deliver the Consultancy Services in a professional and diligent manner. If the products delivered based on Consultancy Services contain apparent errors or deficiencies resulting from WebConcern's failure to deliver the Consultancy Services in accordance with the standard described in this article, and if the Customer reports this to WebConcern within 3 months after delivery of the relevant products, WebConcern's sole remedy, at no additional cost, will be to make reasonable efforts to correct the error or deficiency or, alternatively, offer the Customer a proportional reduction in the fees charged for the relevant Consultancy Services.

## **7. Data Protection Obligations**

**7.1 Commitment to Compliance with Privacy Legislation:** Each party will ensure that its activities comply with the applicable privacy legislation when using the SaaS Services. Where WebConcern processes personal data in the course of performing the Services, it will act as a data processor under the direction and responsibility of the Customer as the data controller in accordance with EU Privacy Directive 2016/679 (the General Data Protection Regulation or "GDPR"). The Customer will ensure compliance with the GDPR and other applicable data

protection laws at all times when using the Services and when instructing WebConcern in the configuration and use of the SaaS Services for the Customer.

**7.2 Obligation to Secure Data:** If WebConcern is the provider of the SaaS Services under the Assignment, WebConcern will implement appropriate technical and organizational measures to protect personal data stored and processed through the SaaS Services provided by WebConcern against misuse. WebConcern will ensure that the data centers used for hosting WebConcern's SaaS Services and for storing Customer Data are located in Europe.

**7.3 Ultimate Responsibility:** With respect to the applicable privacy and other legislation, WebConcern may share previous experiences and observed practical applications regarding the use of the SaaS Services, but this is expressly done without accepting any liability or responsibility. WebConcern is not a legal advisor or law firm, and the ultimate responsibility for compliance with the applicable legislation when using the SaaS Services (and in particular obtaining the relevant consents from individuals whose personal data is used through the SaaS Services) lies and remains with the Customer at all times.

## **8. Fees and Payments**

**8.1 Taxes and Costs:** All prices from WebConcern are, unless explicitly agreed otherwise, exclusive of VAT (Value Added Tax) and other taxes, levies, or duties imposed by governmental authorities. Service prices are exclusive of applicable transportation, travel, and accommodation costs, which will be charged separately to provide the agreed Services, unless explicitly agreed otherwise in the relevant Assignment.

**8.2 Payment Terms:** Subscription fees for SaaS Services provided by WebConcern are payable from the date WebConcern first grants access to the SaaS Services by providing usernames and passwords to the Customer to begin configuring the Services, and are billed monthly thereafter. Fees for Consultancy Services are payable according to the payment schedule included in the Assignment, or, in the absence thereof, monthly in arrears based on the actual hours worked in the previous month. The Customer will pay each invoice within thirty days of the invoice date. The Customer is not entitled to offset any counterclaims or to suspend payment of an invoice.

**8.3 Consequences of Late Payment:** In the event of late payment, WebConcern may charge the Customer the applicable statutory Dutch interest for commercial agreements on the outstanding amount and suspend the Services until full payment is received. If the Customer persists in failing to pay the invoice after being formally notified in writing by WebConcern, WebConcern is entitled to involve third parties in obtaining payment from the Customer and charge the Customer for the related costs.

**8.4 Prices:** All prices from WebConcern may be increased annually. The increased prices will take effect on the first day of the month following WebConcern's notification of the increased prices. In the event of an extension of the term for SaaS Services, the current standard prices for the SaaS Services, as published by WebConcern on its website or communicated in writing to the Customer, will apply to the SaaS Services from the date of the extension.

## **9. Limitation of Liability**

**9.1 Limitation of Liability for Direct Damages:** WebConcern's total liability under an Assignment for breach of contract, tort, or any other legal theory in any calendar year is limited to an amount equal to 50% of the total fees that the Customer has actually paid to WebConcern during the previous full calendar year under the Assignment. Any liability of

WebConcern expires after one year, starting from the moment the damage occurs, provided that any liability of WebConcern shall in any case expire one year after the end of the agreement most closely related to the damage.

**9.2 Exclusion of Liability for Indirect Damages:** WebConcern is not liable to the Customer or third parties for consequential or incidental damages, data loss, lost revenue, lost profits, missed savings, or damage to reputation, regardless of whether such damages arise from tort, contract, or any other claim, even if WebConcern has been notified of the possibility of such damages.

**9.3 No Limitation:** The limitations mentioned in the previous paragraphs of this clause do not apply if and to the extent that the damage results from willful misconduct or gross negligence by WebConcern.

**9.4 Employees and Subcontractors:** The provisions of this clause also benefit WebConcern's employees, subcontractors, and licensors used by WebConcern in fulfilling its obligations to the Customer.

**9.5 Third-Party Claims:** The Customer shall indemnify and hold WebConcern harmless from any third-party claims and related reasonable legal costs arising from or related to the Customer's use of the SaaS Services, including but not limited to claims from third parties caused by a breach of that third party's rights or applicable privacy or other laws by the Customer when using the SaaS Services.

## **10. Termination**

**10.1 Duration and Renewal of WebConcern SaaS Services:** The Customer's right to use the SaaS Services provided by WebConcern is granted for the subscription period specified in the Assignment. If no subscription period is specified in the Assignment, the initial subscription period is one year from the date the SaaS Services are first made available to the Customer for use, after which the subscription is automatically renewed for additional periods of one year unless either party notifies the other in writing at least 2 months in advance that they do not wish to renew the SaaS Services.

**10.2 Duration of the Consultancy Services Assignment:** The applicable term of an Assignment for Consultancy Services will be as agreed upon in each Assignment. Assignments for one-time activities automatically terminate when all agreed Consultancy Services have been delivered by WebConcern and paid for by the Customer. In Assignments for recurring or ongoing consultancy services, the initial and renewal periods will be specified, and in the absence of an explicit initial and renewal term, it is assumed that they are agreed for an initial term of one year with subsequent renewals for additional one-year periods unless either party notifies the other in writing at least 3 months in advance that they do not wish to renew the consultancy services for an additional one-year period.

**10.3 Termination Rights of Both Parties:** A party may terminate an Assignment by written notice to the other party in the following circumstances:

- a. if the other party breaches an obligation under the Assignment and fails to remedy this breach within a reasonable period of at least 30 days specified by the other party in a written notice sent by registered mail to the defaulting party; or
- b. if the other party is declared bankrupt or a trustee is appointed to manage its assets or otherwise becomes unable to meet its debts as they become due.

**10.4 Termination of WebConcern SaaS Services:** WebConcern may terminate the then-current term of a subscription for SaaS Services provided by WebConcern and the related Assignments early if WebConcern decides to discontinue support for the relevant SaaS

service for all its Customers. In such a case, WebConcern will make reasonable efforts to announce this termination at least 6 months in advance. Where possible, WebConcern will offer the Customer a migration path to alternative SaaS Services to replace the discontinued SaaS Services, which the Customer is free to accept or reject.

**10.5 Consequences of Termination:** Upon termination or expiration (for any reason) of an Assignment, all amounts due under that Assignment shall immediately become fully payable, including subscription fees that would have become due for the remainder of the agreed initial term of the subscription period for the Services. No refund will be given for pre-paid amounts for Services, except where the Assignment was rightfully terminated by the Customer due to an unremedied failure by WebConcern.

## **11. Intellectual Property Indemnification**

**11.1 Obligation to IP Indemnify:** As far as WebConcern is aware, the services provided by WebConcern do not infringe on third-party intellectual property rights when used in accordance with the applicable terms. WebConcern will, as its sole and exclusive remedy, defend the Customer at WebConcern's expense against any third-party claim that the Customer's use of WebConcern's services infringes on a third party's intellectual property rights.

**11.2 Terms for IP Compensation:** WebConcern will pay all costs, damages, and attorney's fees ultimately awarded by a court as a result of such a claim or will make all payments related to a settlement WebConcern has reached with such third-party concerning such a claim, provided that:

- a. such a claim is not caused in any way by Customer Data or any act or negligence of the Customer;
- b. the Customer promptly notifies WebConcern in writing of such a claim; and
- c. WebConcern is allowed to exercise control over, and fully cooperate with WebConcern in defending against, such a claim and all related settlement negotiations.

**11.3 Resolution of Infringement:** If a claim for infringement of a third party's intellectual property rights is filed or, in WebConcern's reasonable judgment, is likely to be filed, then WebConcern, at WebConcern's discretion, will:

- a. obtain a license from the holder of the relevant intellectual property rights to enable the Customer to continue using the services; or
- b. replace the relevant part of the services with a modified version thereof, which does not infringe on the third party's intellectual property rights; or
- c. terminate the relevant assignment with a proportional refund of the fees that the Customer has pre-paid for unused portions of the services.

## **12. Confidentiality**

**12.1 Confidentiality Obligation:** Each party (the "Recipient") agrees with the other party (the "Disclosing Party") to treat as confidential all information, in any medium or format (whether or not marked "confidential"), which the Recipient directly or indirectly receives from the Disclosing Party and which pertains to the business operations, activities, software, or customers of the Disclosing Party, and which reasonably can be considered confidential (the "Confidential Information"). The content and existence of this Agreement shall be considered Confidential Information.

**12.2 Usage Restriction:** The Recipient may only use the Confidential Information for the purpose of performing the activities described in this Agreement. The Recipient may grant



access to the Confidential Information only to its employees, directors, subcontractors, and professional advisors (the "Permitted Users") on a strict "need-to-know" basis for this purpose. The Recipient shall ensure that each of its Permitted Users is required to keep the Confidential Information confidential. If a Permitted User is not an employee or director of the Recipient (and is not subject to a professional confidentiality obligation), the Recipient will ensure that the Permitted User enters into a written confidentiality agreement with the Recipient that is essentially equivalent to this clause.

**12.3 Exclusions:** This Article 12 does not apply to any information that:

- a. is in the public domain or later enters the public domain, other than as a result of a breach of this Article 12;
- b. was or is subsequently received by the Recipient from a third party who has no confidentiality obligation regarding that information; or
- c. must be disclosed by a competent government or regulatory authority.

**12.4 Ownership of Customer Data:** All data that the Customer uploads to or sends to the SaaS Services, or collects via the SaaS Services from its relationships, expressly including but not limited to message texts, logos and trademarks of the Customer, customer's brand elements, and other texts and images created by the Customer, shall be considered "Customer Data" and are and shall remain the exclusive property of the Customer and its licensors. WebConcern will not use the Customer Data for any other purpose than to provide the Services to the Customer, to manage, maintain, and improve the Services, and to comply with applicable laws.

### **13. Miscellaneous**

**13.1 Rejection of Third-Party Purchase Terms:** The applicability of the Customer's purchasing or other general terms is expressly rejected. If the Customer accepts a quotation or has requested a quote referring to additional or differing terms of the Customer (such as the Customer's purchasing terms), then such differing or additional terms will not apply between the parties, unless they are expressly accepted in a written statement issued and signed by an authorized representative of WebConcern. In any case, the terms of the quotation itself, including these general terms, shall take precedence over any differing terms of the Customer.

**13.2 No Solicitation of WebConcern Employees:** For the purposes of this clause, a "WebConcern Employee" is any person who works for WebConcern or has worked for WebConcern in the past 24 months on any basis, including as an employee, freelancer, or temporary worker (agency worker), and who has performed services for the Customer under an Assignment. The Customer is prohibited from, during the term of any Assignment between WebConcern and the Customer, and for up to 24 months after the delivery of services under all Assignments between WebConcern and the Customer has ended:

- a. directly or indirectly hiring WebConcern employees or having them perform work for the Customer or any entity affiliated with or related to the Customer; nor
- b. in any way promoting, inducing, requesting, or otherwise encouraging or facilitating a third party to hire WebConcern employees directly or indirectly or have WebConcern employees perform work for such third party.

For any breach of this clause, the Customer shall be liable for a penalty of EUR 100,000, or, if higher, a penalty equal to the total gross annual salary of the relevant WebConcern employee. WebConcern's right to claim this penalty does not prejudice its right to also enforce compliance with this clause and seek damages incurred as a result of such a breach.

If the Customer purchases WebConcern's services on behalf of a third party (e.g., to assist the Customer in providing services to such third party), the Customer must ensure that such third party also fully complies with this clause and is liable for any breach of this clause by such third party as if the Customer had breached the clause itself.

**13.3 Applicable Law:** These terms and all agreements to which they apply shall be governed by Dutch law.

**13.4 Dispute Resolution:** Any disputes arising in connection with these terms or an agreement to which they apply shall be subject to the exclusive jurisdiction of the competent court in Amsterdam, the Netherlands.

**13.5 Obligation to Attempt Amicable Resolution:** Legal proceedings shall not be initiated, except for an immediate provisional measure, until the party wishing to initiate such proceedings has in good faith attempted to resolve the dispute out of court.