

Recyda GmbH

**Professional Services Agreement**

V1.0.0



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## **1 Scope and Applicability**

### **1.1 Subject Matter of the Contract**

This Professional Services Agreement ("PS Agreement") governs the provision of consulting, implementation, configuration, training, or other professional services ("Professional Services") by Recyda GmbH ("Provider") to the Customer.

### **1.2 Relationship to MSA**

This PS Agreement forms an integral part of the Master Service Agreement ("MSA"). All capitalized terms not defined herein shall have the meanings ascribed to them in the MSA. In the event of a conflict between this PS Agreement and the MSA, this PS Agreement shall prevail with respect to the Professional Services. If no MSA exists, this PS Agreement constitutes the entire agreement between the Parties regarding the Professional Services.

### **1.3 Statements of Work**

The specific scope, timeline, and commercial terms of the Professional Services shall be set out in separate order forms or statements of work signed by both Parties or agreed in Text Form (each a "SOW"). In the event of a conflict between the provisions of a SOW and this PS Agreement, the provisions of the SOW shall prevail for the specific services covered by that SOW.

## **2 Performance of Services**

### **2.1 Service Contract**

Unless explicitly agreed otherwise in a SOW as a "Work Contract" (Werkvertrag), all Professional Services are provided on a "time and materials" basis as a Service Contract (Dienstvertrag) pursuant to § 611 BGB. The Provider owes the performance of the services with due professional care, but does not guarantee a specific result or the successful implementation of a project.

### **2.2 Personnel**

The Provider determines the manner and means of performing the Professional Services and may use its own employees or subcontractors.

### **2.3 Change Orders**

Either Party may propose changes to the scope of a SOW. Changes shall only become effective upon mutual agreement in Text Form (a "Change Order"). If a change requested by the Customer leads to additional efforts, the Provider is entitled to additional remuneration.

### **3 Customer Obligations**

#### **3.1 Cooperation**

The Customer acknowledges that the successful provision of Professional Services requires its timely and professional cooperation. The Customer shall:

- (a) provide the Provider with access to necessary systems, data (including User Data), and premises;
- (b) appoint a qualified project manager authorized to make binding decisions; and
- (c) provide all information and approvals reasonably requested by the Provider without undue delay.

#### **3.2 Delay**

If the Professional Services are delayed due to the Customer's failure to comply with Clause 3.1, the Provider is entitled to an extension of time and compensation for additional costs or idle time incurred, charged at the agreed daily/hourly rates.

#### **3.3 Non-Solicitation**

During the term of any SOW and for a period of twelve (12) months thereafter, the Customer shall not, directly or indirectly, solicit, hire, or engage any employee or subcontractor of the Provider who was involved in the performance of the Professional Services.

### **4 Remuneration and Expenses**

#### **4.1 Service Fees**

The Customer shall pay the fees for Professional Services as set out in the SOW ("Service Fees"). Unless fixed prices are agreed, fees are calculated based on the time spent and the Provider's daily or hourly rates valid at the time of performance.

#### **4.2 Time & Material**

Daily rates are based on a working day of eight (8) hours. Services performed outside of standard business hours (Mon-Fri, 9:00 – 17:00 CET) or on public holidays at the Provider's location may be subject to surcharges if agreed in the SOW.

#### **4.3 Travel Expenses**

The Customer shall reimburse the Provider for travel and accommodation expenses incurred in connection with the Professional Services based on actual costs. The following limits apply:

- (a) Rail** 2nd Class (1st Class permitted if travel time is utilized for work)
- (b) Air** Economy Class (Business Class permitted for flight durations exceeding 4 hours)
- (c) Car** EUR 0.50 per driven kilometer
- (d) Hotel** Up to EUR 200.00 per night (including breakfast).

Costs exceeding these limits require prior approval by the Customer in Text Form.

#### **4.4 Travel Time**

Unless otherwise agreed in the SOW, travel time is considered working time and charged at 50% of the applicable hourly or daily rate.

#### **4.5 Invoicing**

Professional Services and expenses are invoiced monthly in arrears, unless otherwise stated in the SOW. Invoices are due for payment within the period specified in the applicable Order Form or SOW. If no such period is specified, payment terms shall be governed by Clause 5.4 of the MSA. If no MSA is in effect between the Parties, invoices shall be due and payable within thirty (30) days of receipt without deduction.

#### **4.6 Expiration of Prepaid Services**

If the Customer purchases a contingent of service hours or days ("Prepaid Services"), such Prepaid Services must be utilized within the timeframe agreed in the SOW or, if no such timeframe is specified, within twelve (12) months from the date of the SOW. Any Prepaid Services not utilized within this period shall expire without refund or compensation, unless the failure to utilize was caused solely by the Provider.

### **5 Rights of Use (Intellectual Property)**

#### **5.1 Standard Deliverables**

Unless otherwise agreed, all concepts, documentation, configurations, scripts, or software code created by the Provider in the course of the Professional Services ("Deliverables") remain the intellectual property of the Provider.

#### **5.2 License**

Upon full payment of the Service Fees, the Provider grants the Customer a non-exclusive, non-transferable, worldwide right to use the Deliverables solely in connection with the Software and for the Customer's internal business purposes, consistent with the usage rights granted under Clause 3 of the MSA (or Clause 8.6 if no MSA exists).

#### **5.3 No Work for Hire**

Nothing in this Agreement shall transfer ownership of the Provider's background IP or the Software to the Customer.

### **6 Warranty and Liability**

#### **6.1 Warranty Standard**

The Provider warrants that the Professional Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards.

## **6.2 Remedy**

In the event of a breach of Clause 6.1, the Customer must notify the Provider in Text Form within fourteen (14) days of the service performance. The Provider's sole obligation shall be to re-perform the non-conforming Professional Services at no additional charge. Clause 7 of the MSA (Performance Deficiencies / Defect Rights) does not apply to Professional Services provided under a Service Contract.

## **6.3 Liability**

The Provider is liable without limitation for damages caused by intent or gross negligence and for damages to life, body, or health. In cases of slight negligence, the Provider's liability is limited to the breach of essential contractual obligations, restricted to the typically foreseeable damage. Any further liability is excluded to the extent permitted by law.

## **7 Term and Termination**

### **7.1 Term of SOW**

Each SOW shall remain in effect until the Professional Services are completed or terminated.

### **7.2 Termination**

(a) Termination for Convenience: Unless a SOW specifies a fixed term or fixed price project, either Party may terminate a SOW for Professional Services on a Time & Material basis with a notice period of two (2) weeks to the end of a month.

(b) Termination for Cause: Clause 11.2 of the MSA applies. If no MSA is in effect between the Parties, the following applies instead:

Either Party may terminate a SOW without notice period for good cause. Good cause exists in particular if the other Party commits a material breach of the Agreement and fails to remedy such breach within thirty (30) days of receipt of a written warning.

### **7.3 Effect of Termination**

Upon termination, the Customer shall pay for all Professional Services performed and expenses incurred up to the effective date of termination.

## **8 General Provisions**

The provisions in this Section 8 apply only if no signed MSA exists between the Parties. If an MSA exists, the corresponding sections of the MSA apply.

### **8.1 Confidentiality**

Each Party shall treat any information received from the other Party that is marked as confidential or would reasonably be considered confidential as strictly confidential. This obligation remains in force for a period of three (3) years after the termination of the respective SOW.

### **8.2 Relationship of Parties**

The Provider performs the Professional Services as an independent contractor. Nothing in this Agreement shall be construed to create a partnership, joint venture, or employment relationship.

### **8.3 Assignment**

The Customer may not assign or transfer this Agreement or any SOW without the Provider's prior written consent.

### **8.4 Governing Law and Jurisdiction**

This Agreement and all SOWs shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG). The exclusive place of jurisdiction for all disputes arising from or in connection with this Agreement is Freiburg im Breisgau, Germany.

### **8.5 Severability**

Should any provision of this Agreement be or become invalid, the validity of the remaining provisions shall not be affected.

### **8.6 Usage Rights Fallback**

The usage rights granted under Clause 5.2 are limited to a non-exclusive, non-transferable right to use the Deliverables for the Customer's internal business purposes for an indefinite period, subject to full payment of fees.