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SPECIAL CONDITIONS for
Cloud Computing
Version 1.0 from
08.09.2023



1 Scope

These SPECIAL CONDITIONS for CLOUD COMPUTING apply to the provision of software as a service for a limited period of time, mostly via the Internet and independent of devices, as well as to the provision of servers and storage space for the use of the software as a service via Microsoft's CLOUD COMPUTING by tegos to the CUSTOMER. Tegos may provide the CLOUD COMPUTING as its own service or procure CLOUD COMPUTING of third parties (e.g. Microsoft) to the CUSTOMER.

Chapter 1:

The provisions of this Chapter 1 apply exclusively to the brokerage of Third Party CLOUD COMPUTING by tegos.

1.1 Conclusion of Contract for CLOUD COMPUTING

- 1.1.1. tegos shall also procure CLOUD COMPUTING for the customer which is provided by third parties (e.g. Microsoft 365 services, Microsoft Dynamics 365, Microsoft Azure services). These third parties are not vicarious agents of tegos nor is tegos otherwise responsible in any way for the provision of services by these third parties. tegos merely mediates the conclusion of the contract.
- 1.1.2. In such cases, the contract for the purchase of CLOUD COMPUTING is concluded directly between the customer and the CLOUD COMPUTING provider.
- 1.1.3. The contract between the customer and the CLOUD COMPUTING provider shall be governed by the contractual terms and conditions of the third party (e.g. the Microsoft Cloud Agreement, the Microsoft Online Service Terms).

1.2 Mediation by tegos

- 1.2.1. tegos merely mediates the conclusion of the contract between the Customer and the CLOUD COMPUTING Provider and does not itself enter into the contractual relationship as a service provider.

1.2.2. The contract models and/or contract documents of the CLOUD COMPUTING providers sometimes provide that tegos is entitled and obliged to prepare the contract offers to the customer in its own name and to invoice the remuneration owed in favour of tegos (e.g. Microsoft Cloud Reseller Agreement). In some cases, the contract models and/or contract documents of CLOUD COMPUTING provide that tegos alternatively acts as the customer's representative. The parties agree in this respect that in no case is tegos obliged to provide the contractual services (e.g. CLOUD COMPUTING, remuneration), but merely mediates the conclusion of the contract.

1.3 No Commissioned Processing by tegos

1.3.1 Due to the mediation of the conclusion of the contract, tegos is under no circumstances an order processor for personal data of the customer in the CLOUD COMPUTING of the third party.

Chapter 2:

The provisions of this Chapter 2 apply exclusively to the provision of CLOUD COMPUTING by tegos.

2.1 Prerequisite for the Provision of CLOUD COMPUTING by tegos

2.1.1. tegos shall provide its CLOUD COMPUTING exclusively on the basis of Microsoft's CLOUD COMPUTING. A prerequisite for the provision of CLOUD COMPUTING by tegos is that the CUSTOMER has concluded the relevant contracts with Microsoft for the CLOUD COMPUTING from Microsoft specified and required in the order.

2.1.2. The provision of CLOUD COMPUTING by tegos is conditional upon the proper provision of CLOUD COMPUTING by Microsoft. Insofar as proper CLOUD COMPUTING is not provided by Microsoft, it is not possible for tegos to ensure proper provision of its own CLOUD COMPUTING. In such cases, the CUSTOMER must contact Microsoft as set out in Chapter 1, Section 1.1.

2.1.3. tegos guarantees the availability of the CLOUD COMPUTING due to the dependence on the CLOUD COMPUTING from Microsoft specified in the order in accordance with the availabilities of the CLOUD COMPUTING from Microsoft. In this respect, the provisions on availability agreed between the CUSTOMER and Microsoft shall apply.

2.2 Provision of CLOUD COMPUTING by tegos

2.2.1. The subject matter of the service is the provision of the software specified in the SERVICE DESCRIPTION by way of CLOUD COMPUTING by tegos for the CUSTOMER for a limited period of time during the term of the contract. The functional scope of the software and the storage space to be provided are set out in the offer letter or the SERVICE DESCRIPTION..

2.2.2. tegos shall provide reasonable access to the software. To this end, tegos shall operate the software in an environment that allows the CUSTOMER to use the software CLOUD COMPUTING via the Internet. The software is made available via an encrypted internet connection

2.2.3. tegos shall make the CLOUD COMPUTING available for use by the CUSTOMER at the transfer point to the general Internet. The CUSTOMER is responsible for providing an Internet connection.

2.2.4. tegos shall provide the CLOUD COMPUTING with professional care.

2.3 Granting of Storage Space

2.3.1. As part of the CLOUD COMPUTING, tegos shall provide CUSTOMER with a storage space defined in the Letter of Offer or the SERVICE DESCRIPTION, as the case may be, via the Microsoft Service for the storage of its data. If the storage space is no longer sufficient to store the data, tegos shall notify the CUSTOMER thereof. The CUSTOMER may reorder corresponding contingents subject to corresponding availability.

2.3.2. The CUSTOMER is not entitled to transfer this storage space to a third party for use, either in part or in full, against payment or free of charge.

2.3.3. The CUSTOMER undertakes not to store any content on the storage space, the provision, publication or use of which violates applicable law or the provisions of this contract.

2.3.4. tegos provides the Storage Space via Microsoft's CLOUD COMPUTING. In this respect, tegos is not obliged to take appropriate precautions against data loss and to prevent unauthorised access by third parties to the Customer's data, as the infrastructure is operated exclusively via Microsoft's CLOUD COMPUTING. In this respect, the precautions agreed between the CLIENT and the third party against data loss and to prevent unauthorised access by third parties to the CLIENT's data shall apply.

2.3.5. The CUSTOMER remains the sole owner of the data and may therefore at any time request the release of individual or all data via the technically provided functions. A manual data export by tegos after the conclusion of a corresponding order may be agreed between the parties.

2.3.6. Upon termination of the contractual relationship, tegos shall return to the CUSTOMER all data stored on the storage space allocated to him. The surrender of the data shall be effected, at the option of tegos, either by handing over data carriers, transmission via a data network or the provision of a download link. The CUSTOMER shall not be entitled to also receive the software suitable for the use of the data.

2.3.7. Due to the fact that tegos provides the storage space via Microsoft's CLOUD COMPUTING and the data is thus stored exclusively in Microsoft's infrastructure, tegos shall not be responsible for the deletion of all of the CUSTOMER's data. In this respect, the CUSTOMER shall address the deletion of its data directly to Microsoft.

2.4 Rights of Use and License Conditions

2.4.1. CUSTOMER is entitled to access the software by means of CLOUD COMPUTING and to run it as intended and to use its functions. In this respect, the CLIENT shall receive a simple, revocable right to use the software by way of CLOUD COMPUTING which is limited in time to the term of the CONTRACT. The right of use is spatially unlimited. This also includes any updates, upgrades, releases and new versions.

2.4.2. In no case shall the CLIENT have the right to lease or otherwise sub-license the acquired software, to publicly reproduce or make it accessible by wire or wireless means, or to make it available to third parties against payment or free of charge, e.g. by way of application

service providing or as "software as a service", or to process the software. This shall also apply with regard to access to the software.

2.4.3. If the CUSTOMER uses the software to an extent that exceeds the acquired rights of use qualitatively (with regard to the type of permitted use) or quantitatively (with regard to the number of acquired licenses), he shall immediately acquire the rights of use necessary for the permitted use. If he fails to do so, tegos shall assert the rights to which it is entitled.

2.5 Cooperation Obligations of the CLIENT

2.5.1. The CLIENT shall ensure that it does not use the Software in a way that - possibly - leads to interruptions, damage or unavailability or similar undesirable behaviour at CLOUD COMPUTING or parts thereof.

2.5.2. The CLIENT is responsible for obtaining, implementing and providing for the term of the Agreement the necessary hardware, internet connections or other services necessary to access the CLOUD COMPUTING as intended.

2.5.3. The CUSTOMER is obliged to comply with and update the system requirements in such a way that the provision of a new version of the software is possible at any time. To the extent that tegos is unable to provide maintenance and support for the software because the system requirements have not been complied with and updated, tegos shall be released from its obligation to perform in this respect.

2.5.4. The CUSTOMER must take the necessary IT security measures to prevent the security and integrity of tegos' CLOUD COMPUTING from being threatened via its IT infrastructure. This includes, among other things, the use of operating systems that are always up-to-date and the use of up-to-date precautions to protect IT security (anti-virus scanner, firewall).

2.5.5. The CUSTOMER shall take reasonable measures to prevent unauthorised persons from using the CLOUD COMPUTING offered by tegos. In particular, the CUSTOMER shall keep its access data inaccessible to third parties and keep it secret.

2.6 Defect Rights

- 2.6.1. Should the CUSTOMER discover any defects in the software or in the documentation, he shall notify tegos thereof in writing without delay.
- 2.6.2. tegos shall be obliged to remedy the notified defects in the software and the documentation within a reasonable period of time.
- 2.6.3. The CUSTOMER shall provide tegos with the access to the software and the documentation required for the purpose of remedying the defect.
- 2.6.4. The CUSTOMER shall not be entitled to claim a reduction of the license fee by independently deducting a self-determined reduction amount from the current license fee. The CUSTOMER's claim under the law of enrichment to reclaim the part of the rent paid in excess due to a justified reduction shall remain unaffected by this.
- 2.6.5. In the event of failure to remedy the defect, the CUSTOMER shall be entitled to extraordinary termination of this contract pursuant to § 543 para. 2 sentence 1 no. 1 BGB. Failure to remedy the defect shall be deemed to have occurred if the remedy of the defect is impossible for tegos, if tegos refuses to remedy the defect or if the remedy of the defect by tegos is unreasonable for the CUSTOMER for other reasons.
- 2.6.6. tegos shall not be liable for damages arising from defects which existed prior to the conclusion of the contract in accordance with § 536a para. 1 BGB (German Civil Code) regardless of fault, but only within the scope of its own fault.
- 2.6.7. The rights to claim for defects according to section 10 of the GTC are excluded..

2.7 Contract Term and Termination

- 2.7.1. The term of the contract is one year and begins with the transmission of the access data and the granting of access to CLOUD COMPUTING by tegos to the customer. It does not matter when the customer starts to use CLOUD COMPUTING.
- 2.7.2. The term of the contract shall be automatically extended for a further year unless the contract is terminated in writing three (3) months prior to the expiry of the contract term

by a declaration to the other party. In the event of an automatic extension of the contract, the agreed termination provisions shall continue to apply unchanged.

2.7.3. Either party may terminate the contract without notice by giving written notice to the other party for good cause. Good cause shall be deemed to exist for tegos in particular if the CUSTOMER repeatedly fails to make due payments, if the CUSTOMER files for insolvency proceedings or if the CUSTOMER violates the rights of use under this contract.

2.8. Remuneration

2.8.1. Unless otherwise agreed in writing, tegos shall invoice the license fee for the use of CLOUD COMPUTING monthly in advance.