

SCHEMA ST4 - General terms and conditions for the leasing of software of Quanos Content Solutions GmbH [2023-12]

§ 1 General terms

1. Lessor shall provide all services exclusively on the basis of the below mentioned general terms and conditions (GTC). Any other terms, in particular general terms and conditions of Lessee do not become part of the contract, even if Lessor does not expressly contradict these terms.
Offers of Lessor are non-binding at all times. A lease contract is concluded only if Lessor has confirmed the offer in writing. If Lessor provides the service without the receipt of a written order confirmation by Lessee, the lease contract is concluded upon the supply of the software. If these GTC and an offer of Lessor contain different provisions on the same subject, the provision included in the offer shall prevail.
2. Lessor may provide the contractually owed services through qualified subcontractors.

§ 2 Object of the lease contract; additional services

1. Lessor grants to Lessee for the term of the lease contract the rights of use to a computer program, the number of which is detailed in the lease contract. The respective right of use is a non-exclusive, time limited and non-transferable right to use the version of the computer program as described in the lease contract ("right of use") which Lessee acquires according to the following conditions. Lessor owes the licensing of the computer program as an executable version in object code form. The source code of the computer program is not included in the object of the lease contract.
2. The computer program is solely made available for the contractual use as described in more detail in the lease contract and these GTC and only for the use within the scope of the respective user manual's guidelines; this above described right of use includes particularly the rights pursuant to sections 69d para. 1 in conjunction with 69c no. 1 sentence 2 Copyright Act (UrhG). Moreover, the following terms of use apply:
 - If Lessee purchases a license restricted to the number of named users („**Named User**“), (i) Lessee is authorized, subject to the terms and conditions of these GTC and the lease contract, to install the computer program on workstations operated by Lessee or on servers operated by Lessee or on Lessee's behalf, and provide and/or make available for use in accordance with the terms and conditions of these GTC and the lease contract the computer program to its employees and/or third parties to the extent that they work for and on behalf of Lessee, provided that (i) such users have been named to Lessor by being registered by Lessee in the technical environment as designated by Lessor and (ii) the number of users using the computer program during the term of the lease contract does not exceed the contractually agreed maximum number of users.
 - If Lessee purchases a license restricted to a number of unnamed users („**Concurrent User**“), Lessee is authorized, subject to the terms and conditions of these GTC and the lease contract, to install the computer program on a workstation and/or IT infrastructure operated by Lessee or on Lessee's behalf, and to provide and/or make available the computer program for use, in accordance

with the terms and conditions of these GTC and the lease contract, to its employees as well as third parties, to the extent that they work for and on behalf of Lessee, provided that the number of concurrent users does not exceed the contractually agreed maximum number of users.

3. Only Lessee is entitled to use the computer program. Lessee has not the right to make the program available to third parties without Lessor's prior consent.
4. Lessee or – if agreed between the parties – Lessor shall install the computer program and any customizing on an IT environment to be supplied by Lessee. Lessor is obliged to hand over to Lessee all technical documentation necessary for the use of the computer program, such as data carrier, user manual, etc. Lessee must confirm Lessor the receipt of this technical documentation in writing at the time when handed over. If the installation is performed by Lessor, Lessee shall bear the costs of the installation in the amount as described in the lease contract.
5. The following actions by Lessee are not authorized:
 - Modification, adaptation, translation, processing, arrangement or other reworking of the computer program as well as copying of the results generated by such actions, unless these actions are necessary for the intended use of the computer program, including the correction of errors by the persons authorized to use the program, and Lessor has not offered, and in the event of commissioning, carried out the elimination of the obstacle to intended use within a reasonable time;
 - Disassembly, decompilation, reverse engineering, or use of another process to obtain the source code, unless these actions are necessary for achieving the interoperability of an independently created computer program with other programs and Lessor has not provided the necessary information within a reasonable period;
 - Copying of the computer program with the following exceptions: installation and execution pursuant to § 2 para 2 through 4 above, creation of a backup copy, which must be marked as such;
 - Removal or alteration of trademarks, copyright notices or other proprietary notices from the computer program;
 - Lending, renting, leasing or otherwise make available the computer program to a third party on a temporary basis;
 - Use of the computer program on behalf of a third party, e.g., as software as a service (SaaS) or as an application service provider (ASP).
6. During the term of the lease contract Lessor shall provide to Lessee support in accordance with the specification of support which is attached to Lessor's offer.
7. Lessee will inform Lessor without undue delay as soon as Lessee becomes aware of the breach of an industrial property right or copyright to or in the computer program or the disclosure of user identities or passwords to unauthorized users.
8. Lessor has the right to conduct audits in consultation with Lessee or to have audits conducted by an auditor to be named on a case-by-case basis in order to assess Lessee's compliance with the terms of use. In particular, Lessor is entitled to confirm Lessee's compliance with these terms of use through audits at Lessee's premises, which must regularly be announced in a timely manner.

9. Lessee will obligate the authorized users, and, in the event of the transfer of the computer program pursuant to a consent of Lessor, the transferee, to undertake to comply with the terms of use of these GTC. The declaration of commitment must be in text format and be submitted to Lessor upon request.

§ 3 Price clause

1. During the term of the lease contract, Lessee is obliged to pay a licence fee for the rights of use in and to the computer program in the amount as described in the lease contract. The prices are described therein plus the respectively applicable value added tax.
2. The licence fee is payable in advance for the payment period specified in the lease contract and is due for payment on the third calendar day of each month.
3. The licence fee is payable into an account as referred to on the invoice of Lessor.
4. Lessee may only offset claims that are either uncontested or have been recognised by final judgment. This, however, does not apply to (i) a reduction in accordance with section 536 German Civil Code (BGB) and (ii) a damage caused by a defect.
5. Lessor reserves the right to adjust the fees owed by Lessee in accordance with § 3 para 1 above by a reasonable amount each year. When making an adjustment, Lessor shall take into account any cost changes that have occurred in the meantime in the area of wages, salaries and costs of acquiring IT services. An adjustment shall become effective on the date specified by Lessor, but no earlier than one month after receipt by Lessee of the notification of the adjustment. In the event of an increase in fees by more than 5% in each case, Lessee shall be entitled to terminate the lease contract. The termination must be declared in writing without undue delay after receipt of the notification of the increase with effect from the time the increase becomes effective. An adjustment of prices in accordance with the pricing terms of the offer remains unaffected thereby.

§ 4 Warranty

1. Lessor's strict liability, regardless of fault, for damages for defects of the services already existing at the beginning of the lease contract (section 536a German Civil Code (BGB)) is excluded.
2. Lessor warrants that the licensed computer program within the meaning of § 2 para 1 of these GTC is suitable for contractual use as provided in the user manual, or respectively the product specification.
3. To the extent necessary, Lessee shall grant to Lessor access (for example by means of a remote control access) to the computer program installed at Lessee as well as to the technical equipment and documentation in order to enable Lessor to undertake measures required to eliminate defects according to the statutory warranty regime.
If Lessor can prove that the issues notified by Lessee do not give rise to any warranty claim, Lessee shall bear expenses for the error search as well as for further services in connection therewith.

4. Lessee has no claim to measures for eliminating a defect, if:
 - Lessee does not grant Lessor access to the computer program contrary to § 4 para 2 of these GTC, or
 - Lessee or a third party engaged by Lessee has performed changes to the computer program and such changes have caused the issue.

Besides, the applicable statutory laws, in particular, sections 536 para. 1, sentence 3, 536b, 536c para 2, sentence 2 German Civil Code (BGB) apply to warranty exemptions.

§ 5 Liability

1. Lessor is liable without limitation for damages caused intentionally or by gross negligence.
2. In the event of a slightly negligent breach of a primary obligation or a secondary obligation, which breach jeopardizes the achievement of the purpose of the lease contract or the fulfillment of which makes the proper execution of the lease contract possible in the first place and on the fulfillment of which Lessee could rely (hereinafter "**Essential Secondary Obligation**"), the liability of Lessor shall be limited to damages foreseeable at the time of the conclusion of the lease contract and typical for the lease contract. Lessor shall not be liable in the event of a slightly negligent breach of secondary obligations that are not Essential Secondary Obligations. The foregoing limitations of liability of this para 2 shall not affect Lessor's liability for an assumed guarantee of quality, for fraudulent intent, for damages resulting from injury to life, body and health as well as for product defects in accordance with the Product Liability Act. A change in the burden of proof to the disadvantage of Lessee is not associated herewith.
3. To the extent that liability under this § 5 is excluded or limited, this shall also apply to the personal liability of Lessor's employees, representatives and vicarious agents.

§ 6 Term of the contract, termination

1. The minimum term of the lease contract is set forth in the lease contract.
2. Lessee's right of using the computer program shall be for the minimum term as agreed between the parties, as well as, if agreed between the parties, for any subsequent renewal terms. The minimum term shall commence upon delivery of the computer program. If Lessor owes installation of the computer program, the minimum term shall commence on the date of installation.
3. Either party's right to terminate the lease contract for an important reason (*außerordentliche Kündigung aus wichtigem Grund*) shall remain unaffected by the term and termination provisions of this § 6.
4. Any notice of termination requires written form to become effective.
5. Upon termination of the contract, Lessee must return the licensed items (including any technical and other documentation made available, for example user manuals) to Lessor in a condition corresponding to its contractual use. Any copies of the computer program or any technical documentation handed over must be destroyed or completely deleted. At the request of Lessor Lessee must prove to Lessor the deletion or destruction.

§ 7 Final provisions

1. Each party shall treat confidential all information such party obtains about circumstances concerning the internal business operation of the other party in connection with the conclusion and performance of the lease contract. This obligation to confidentiality also includes facts concerning the conclusion, contents and text of the lease contract (including these GTC). Moreover, this confidentiality obligation encompasses all circumstances in connection with this lease contract, and, in particular, the source code of the computer program. The source code of the computer program is a trade and business secret of Lessor. This confidentiality obligation remains valid for an unlimited period, also for a period reaching beyond the end of the lease contract.
2. Lessor may assign the lease contract to any of its affiliate enterprises as per section 15 et seq. of the German Stock Corporation Act (AktG) as well as to any transferee of Lessor's business pertaining to the subject matter of the lease contract. Lessee hereby consents to any such assignment.
3. Lessee may amend these GTC during the term of the lease contract, in order to (1) adjust the GTC to new statutory law requirements or supreme court jurisdiction, (2) dispel doubts with respect to the interpretation of these GTC or (3) adopt these GTC to new technological or market developments. Lessor shall inform Lessee of such amendments to these GTC in writing upon at least 4 weeks notice prior to them coming into effect. If Lessee does not object to an amendment within 4 weeks after having received the respective notification, the amendment shall be deemed effectively agreed. When notifying Lessee of such amendments Lessor shall inform Lessee of Lessee's right to object and the consequences of failing to raise an objection.
4. The lease contract is subject exclusively to the law of the Federal Republic of Germany.
5. The place of jurisdiction for all disputes arising from this lease contract is Nürnberg, insofar as permitted by law. Lessor may also choose as place of jurisdiction for legal actions against Lessee Lessee's general place of venue.