

General Terms & Conditions of dataglobal Heilbronn GmbH, Im Zukunftspark 10, 74076 Heilbronn

1. Scope

1.1 The following General Terms and Conditions ("GTC") of dataglobal Heilbronn GmbH (hereinafter "dataglobal Heilbronn") can be retrieved and requested from dataglobal Heilbronn at any time. The Customer is obliged to regularly check online whether updated versions of the provisions are published.

1.2 The deliveries, services and offers of dataglobal Heilbronn are made exclusively on the basis of these GTC. They also apply to all future business relationships, even if they have not been expressly agreed again. The GTC are deemed to be accepted at the latest on receipt of the delivery items and associated services or on conclusion of a contract.

1.3 Any conflicting or deviating terms and conditions of the Customer are not recognized by dataglobal Heilbronn unless dataglobal Heilbronn has expressly agreed to their validity in writing.

1.4 These GTC also apply if dataglobal carries out the delivery to the Customer without reservation in the knowledge of these GTC of the Customer that conflict with or deviate from these GTC.

1.5 The GTC of dataglobal Heilbronn apply exclusively to entrepreneurs and commercial resellers, but not to consumers.

2 Conclusion of the Agreement, Subject Matter

2.1 The offers of dataglobal Heilbronn are subject to change and non-binding. This also applies in particular to offers in advertising material and on the Internet.

2.2 We reserve the right to make technical changes within the scope of technical progress and what is reasonable. Not binding and not up to date are mere catalog information or information on Internet pages. Offers on the dataglobal Heilbronn website do not constitute binding contractual offers. These merely represent an invitation to submit an offer by the Customer for the corresponding system.

2.3 The acceptance of an order by telephone or an order by fax or e-mail does not constitute a binding acceptance by dataglobal Heilbronn. An agreement is only concluded when an order confirmation is sent. The sending of the order confirmation by electronic means is sufficient in this respect.

2.4 The subject matter of the Agreement shall be the products and services designated in the order.

2.5 dataglobal Heilbronn is entitled to transfer parts or the entire order to third parties for further execution. The consent of the Customer is not required for this.

3. Services of dataglobal Heilbronn

3.1 dataglobal Heilbronn provides such services on the basis of these GTC that are not the subject of license and support agreements concluded with the Customer, such

as the installation of the Software, the creation of the executability and the adaptation of the Software to the operating conditions hardware and software environment conditions at the Customer are not part of the services to be provided by dataglobal in accordance with the EUSA.

3.2 Development and project services of dataglobal Heilbronn are also provided on the basis of these GTC and must be commissioned separately.

3.3 The services to be provided by dataglobal Heilbronn are defined in separate individual contracts, in which the system designs and/or service descriptions are defined in more detail.

4. Term and Termination

4.1 The Individual Agreement concluded with dataglobal Heilbronn come into force with their signature or confirmation of an offer issued by dataglobal to the Customer. Its term is resulting from the Individual Agreement.

4.2 Insofar as, as a result of force majeure, dataglobal Heilbronn is prevented from fulfilling its obligations under the respective Individual Agreement, it will be released from its obligation to perform for the time necessary to restore the condition required for the performance of the Agreement. Force majeure within the meaning of these GTC is deemed to be all unforeseeable events, or events which – even if they were foreseeable – are beyond the control of dataglobal Heilbronn and whose effects on the performance of the Agreement cannot be prevented by reasonable efforts on the part of dataglobal.

4.3 The Customer will return or destroy all documentation, technical information, data and other documents provided to him as well as all copies made by him of the systems provided in whole or in part to dataglobal Heilbronn within 14 days after termination of an Agreement, insofar as he is not obliged to store them for a longer period on the basis of existing laws. In deviation from the above provision, the Customer is entitled to retain or secure separable open source components. The Customer will sign and send dataglobal Heilbronn a correspondingly prepared declaration.

5. Cooperation of the Customer

5.1 The Customer shall provide a test system that reflects the conditions of its productive environment in which the provided software is to be used or the systems on which the commissioned activities are to be performed.

5.2 Unless expressly agreed otherwise, the Customer shall check and test provided systems and delivered software in its own test environment.

5.3 If the Customer does not provide a test system, dataglobal Heilbronn is not liable for data losses and/or production downtimes at the Customer's premises which

have occurred due to activities in the Customer's productive environment.

6. Terms of Payment

6.1 The prices stated are subject to change and are net prices in euros. The statutory value added tax is not included in the prices. It shall be shown separately on the invoice in the amount applicable on the day of invoicing.

6.2 The invoices of dataglobal are payable within 14 days upon receipt without deduction.

6.3 dataglobal is entitled, despite provisions to the contrary, to offset payments first against older claims. dataglobal Heilbronn will inform the Customer about the type of set-off. If costs and interest have already been incurred, dataglobal Heilbronn is entitled to offset incoming payments first against the costs, then against the interest and finally against the main service.

6.4 A payment is only deemed to have been made when dataglobal Heilbronn can dispose of the amount. For foreign orders, payments are to be made in euros to the specified paying agent. Costs that are charged to dataglobal Heilbronn's paying agent are to be reimbursed by the Customer.

6.5 If the Customer is in default, dataglobal Heilbronn is entitled to demand interest from this point in time in the amount of 9 % above the applicable base interest rate.

6.6 Offsetting against dataglobal Heilbronn can only take place with legally established, undisputed claims or claims recognized by dataglobal. The Customer is authorized to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

6.7 In the event of premature termination of an Agreement by the Customer, the Customer must pay the full remuneration for the services provided by dataglobal Heilbronn up to that point. Damages incurred by dataglobal Heilbronn as a result of premature unauthorized termination of the Agreement shall be borne by the Customer.

7. Warranty

7.1 A material defect shall be deemed to exist if the delivery items do not have the contractual quality or are not suitable for the contractually agreed use.

7.2 The following provisions shall apply mutatis mutandis to defects of title. Reference is made to Clause 8.

7.3 dataglobal Heilbronn ensures that the data carriers on which the software provided is recorded are free of errors and can be used for the intended purposes under normal operating conditions when handled professionally.

7.4 The Customer must duly comply with his commercial obligations to inspect and give notice of defects in accordance with § 377 of the German Commercial Code

(HGB). He must inform dataglobal Heilbronn immediately and in writing of any defects in the delivery items.

7.5 The Customer shall take reasonable precautions in the event that the supplied items do not work properly in whole or in part, e.g. by means of data backup, fault diagnosis, the regular review of the results and measures, etc.

7.6 dataglobal Heilbronn will remedy defects within a reasonable period of time which the Customer notifies at least in text form in a comprehensible form within 12 months (limitation period for claims for defects) after handover of the delivery items or provision of the service.

7.7 A prerequisite for claims for rectification of defects is the reproducibility or detectability of the defect.

7.8 If the defect cannot be determined during an inspection of the delivery items and it turns out that there was actually no defect, the Customer will bear the costs of the inspection in accordance with the current price list of dataglobal Heilbronn. This applies in particular in the event of incorrect use of the delivery items or the existence of other faults for which dataglobal is not responsible.

7.9 The rectification of defects can take place both by telephone and by written or electronic actions of dataglobal.

7.10 dataglobal Heilbronn can also remedy the defect by making another program version available.

7.11 If dataglobal Heilbronn is not successful with the supplementary performance within a reasonable period of time which allows at least two attempts at rectification, the Customer is entitled to set dataglobal a reasonable final period of grace which allows at least two attempts at rectification. If dataglobal is also unsuccessful within this last period of grace, the Customer is entitled to reduce the remuneration or to withdraw from the contract at his discretion.

7.12 Waiting for deadlines and setting of deadlines by the Customer is dispensable if this is not reasonable for the Customer, in particular if dataglobal finally and seriously refuses subsequent performance.

7.13 Subsequent performance is not deemed to have failed with the second attempt at rectification. Rather, dataglobal Heilbronn is free to choose the number of attempts at subsequent performance during the additional periods.

7.14 The computer and personnel capacities required to remedy defects shall be provided by the Customer free of charge.

7.15 The obligation of dataglobal Heilbronn to rectify defects does not apply if the delivery items are used on other system configurations than those agreed in the contract.

7.16 dataglobal Heilbronn assumes no warranty for delivery items which have been unauthorized changed or

processed by the Customer or by third parties on his behalf. This also applies if the Customer has changed open source components. If an error is based on a program change or extension, dataglobal is not obliged to rectify the error. It also does not apply insofar as the Customer does not accept services offered.

7.17 Program adaptations which become necessary as a result of changes to manufacturer-specific basic software outside the system environment provided by dataglobal Heilbronn are not at the expense of dataglobal Heilbronn.

7.18 If the Customer observes defects in the delivery items which only occur in isolated cases or which have not occurred in other comparable installations, the Customer bears the burden of proof that the defects are in the delivery items and not in environment-specific incompatibility influences or incorrect handling of the delivery items by the Customer. If there is no defect in the delivery item after this, dataglobal Heilbronn can demand reimbursement from the Customer for the costs incurred by the inspection.

8. Defects of Title

8.1 A defect of title exists if the rights required for the contractually agreed use could not be effectively granted to the Customer by dataglobal Heilbronn.

8.2 If a third party asserts the infringement of industrial property rights against the Customer due to the use of the delivery items in accordance with the contract, dataglobal will pursue the defense of the claims at its own expense. dataglobal Heilbronn will indemnify the Customer against all claims for damages, liability claims and costs which a court grants to the third party asserting the infringement of rights or determines within the framework of a settlement, insofar as dataglobal Heilbronn has agreed to this.

8.3 A prerequisite for the assumption of costs and indemnification within the meaning of section 8.2 is that the Customer (i) informs dataglobal in writing without delay, at the latest, however, within 30 days - or (ii) leaves the legal defense and possible settlement negotiations to dataglobal alone; (iii) provides dataglobal with the information and appropriate support required for the legal defense or settlement negotiations and grants dataglobal the corresponding power of attorney to exercise the legal defense.

8.4 Insofar as the rights of third parties are infringed, dataglobal can, at its discretion, rectify the infringement by (i) obtaining from the party entitled to dispose of the property right a right of use for the benefit of the Customer which is sufficient for the purposes of the respective contract, or (ii) modifying the infringing software without or only with insignificant effects on its function; or (iii) replacing the infringing software with software whose function is insignificant for the Customer or which use in accordance with the contract does not infringe any property rights, or (iv) supplying a new program version whose use in accordance with the

contract does not infringe any property rights of third parties.

8.5 If none of the options listed in Clause 8.4 is economically justifiable, dataglobal is entitled to terminate the license for the component concerned. Remuneration which the Customer has already paid as well as remuneration paid in advance for services not used will be refunded by dataglobal.

8.6 Indemnification against claims of third parties by dataglobal does not take place insofar as (i) the affected component has been changed, (ii) has been used beyond the contractually agreed extent, (iii) a version of the component which is no longer current is used and a claim for infringement could have been avoided by using an unchanged current version which was made available to the Customer.

8.7 In all other respects, the provisions of Clauses 7 and 9 shall apply mutatis mutandis in the case of defects of title.

9. Liability

9.1 The liability of dataglobal is limited to the damage typical for the agreement which the Customer had to expect at the time of conclusion of the agreement on the basis of the circumstances known to him at that time. Any further claims, in particular claims for damages including loss of profit or due to other financial losses are excluded.

9.2 The aforementioned limitation of liability does not apply to such damages which have been caused intentionally or at least through gross negligence by actions attributable to dataglobal.

9.3 In the event of damage resulting from injury to life, limb or health, liability is unlimited in terms of amount even in the event of a simple negligent breach of duty by actions attributable to dataglobal.

9.4 Liability under the Product Liability Act shall remain unaffected.

9.5 If the Customer loses data during the use of systems provided, dataglobal is only liable for damage for which it is responsible insofar as the Customer backs up his data in a suitable form at intervals appropriate to the application, but at least once a day, so that these can be restored with reasonable effort.

9.6 Insofar as liability is excluded or limited, this also applies to the personal liability of dataglobal's employees, representatives and vicarious agents.

10. Confidentiality

10.1 The parties shall be obliged to treat as confidential any information of the other party and its Customers, e.g. of a technical, business or organizational nature, of which they become aware in the course of their cooperation.

10.2 Neither during the duration nor after the termination of the cooperation may knowledge that has become known be exploited, used or made accessible to third parties without the prior written consent of the party

concerned, insofar as this does not involve information that is generally known and accessible to everyone.

10.3 The use of information that has become known is limited to the use that is absolutely necessary for the execution of the agreements binding the parties.

10.4 The parties shall impose a corresponding obligation of confidentiality on their employees.

11. Installation Directory

dataglobal is entitled to list the Customer in an installation directory and to use this for reference and acquisition purposes.

12. Data Protection

12.1 The personal data provided by the Customer shall be processed confidentially and in accordance with the provisions of the Federal Data Protection Act, the Basic Data Protection Regulation and the Telemedia Act.

12.2 Within the scope of the respective consents granted, personal data shall be used to inform about the products, product improvements and new product developments as well as services offered by dataglobal. The legal basis for the data processing is Art. 6 para. 1 lit. a DS-GVO.

12.3 The Customer has the right to obtain information about the stored personal data at any time and to demand its correction. This includes the origin of the data as well as the recipients to whom data has been forwarded. Requests for information are to be directed – stating the question as precisely as possible – to dataglobal GmbH, Im Zukunftspark 10, 74076 Heilbronn, Tel.: +49 7131 1226.500, e-mail: datenschutz@dataglobal.com. dataglobal will process the request as quickly as possible and try to eliminate existing concerns.

12.4 The competent supervisory authority is the State Commissioner for Data Protection and Freedom of Information of Baden-Württemberg, www.baden-wuerttemberg.datenschutz.de.

13. Final Provisions

13.1 Amendments and supplements to the contracts binding the parties and to the annexes thereto must be made in writing to be effective.

13.2 The parties agree that German law shall apply to all legal relationships. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.

13.3 The place of jurisdiction and performance for the mutual rights and obligations arising from the contracts shall be Heilbronn.

13.4 Claims arising from the mutual business relations shall be asserted within six months after they have arisen.

13.5 The assignment of rights or transfer of obligations under this contract shall require the prior written consent of the party.

13.6 If, during the term of the contract, circumstances arise which affect the technical, legal or economic effects of the contract so substantially that performance and consideration are no longer in reasonable proportion to each other, either party may demand an adjustment of the contract to the changed conditions.

13.7 Should any provision of these GTC be or become invalid or unenforceable, or should the parties determine that there is a gap in the GTC, this shall not affect the validity of the remaining provisions. Instead of the invalid or unenforceable provision or to fill the gap, an appropriate provision shall apply. This shall, as far as legally possible, come as close as possible to what the parties would have intended if they had considered the point when concluding the contract or subsequently including a provision. In this case, the contracting parties shall agree on a valid or enforceable provision or a provision to fill the gap that comes as close as possible in economic terms to the meaning and purpose of the contract that the parties intended when they signed it.