

Part I

These General Terms and Conditions are included if “products” or “software” are rented via the cloud and these General Terms and Conditions are included in the “individual contracts”.

§ 1 Contract components and special definitions

The contract components are in this order:

- a) The “individual contract” that regulates services, technical requirements, prices, etc.
- b) The appendices of the “individual contract”.
 - i. SLA incident response and availability
- c) These Terms and Conditions Part C Cloud Services
- d) The provisions of the general terms and conditions of the framework agreement including their appendices.

Definitions : In addition to the provisions of the framework agreement, the following definitions.

- e) “Order processing”: Is order processing in the legal sense. The required documentation can be found in the respective individual contract.
- f) “Third party”: Anyone else to whom ecos systems does not grant any rights to use the “software”.
- g) “Documentation”: operating instructions for the “software”. This, like the “software” on the ecos systems server, is always made available to the client online in the latest version.
- h) “Individual contract”: The individual contract document that reflects the individual contract concluded between the client and ecos systems. The contract consists of the respective individual contract including its appendix(s) and these General Terms and Conditions.
- i) “Node point”: Interface or the transfer point from the respective ecos systems data center to data networks or data networks that are not legally assigned to ecos systems, such as in particular the Internet or the client’s data networks.
- j) “Platform”: The platform is the system on which the client’s application data created with the “software” is stored. The “software” together with the platform is referred to as the “technical system”.
- k) “Release”: Generic term for new software versions that are made available to the client.
- l) “Software”: The term describes the sum of “standard” and “custom software”.
- m) “Standard software”: The “software” created or subsequently created independently of a contractual relationship with the client.
- n) “Technical system” or “product”: The generic term for combinations of “software” and provided hardware. The individual components of the respective “technical system” are described in the respective individual contract and its appendices.
- o) “Update”: “Update” refers to a program version developed to correct or circumvent “technical errors”, which is made available to the client by ecos systems. The goal of an “update” is to provide a fault correction as quickly as possible. Each “update” can be clearly identified by its version number. An “update” can only be installed on a clearly named “upgrade”.
- p) “Upgrade”: “Upgrade” means a new program version that contains an increase in performance and/or functionality compared to the previous program version of the software. “Upgrades” are made available to the client by ecos systems after they have been approved by ecos systems.

§ 2 “Availability”, backup and maintenance windows

- 1) The “availability” of the “software” or the “technical system” is the period of time during which the client can use the “technical system” as agreed.
- 2) During the time periods specified as backup and maintenance windows, ecos systems does not guarantee the availability of the “technical system” to the agreed extent, but functional restrictions or unavailability may occur.
- 3) The statements made in the SLA under § 3 regarding availability do not concern the periods in which the “technical system” is not available due to causes of force majeure.

§ 3 Performance obligations of the client

- 1) The client will support ecos systems by fulfilling the performance obligations specified in the respective individual contract.
- 2) If the obligations stated in the service note are not fulfilled, the client will be in default of acceptance.
- 3) If there are any disruptions when using the product, the customer will immediately inform ecos systems of these disruptions. The customer's fault notification must contain the following information:
 - Customer Name,
 - Current contact person and availability
 - Place of performance (street, number, zip code, city),
 - Serial number or number of the first valid order confirmation
 - Description of the disorder (sporadic or permanent),
 - Performance impairment
- 4) For the duration of the contractual relationship, the customer must always name someone authorized to make legal declarations, including a representative. Likewise, a technically competent contact person and deputy must be appointed at all times for the duration of the contractual relationship.
- 5) The customer is obliged to provide the measures required for LTE (radio communication) between the technical system and the cloud server and not to change them during the term of the respective individual contract. Details can be found in the respective individual contract. If in doubt, an internet connection must be ensured as redundancy.
- 6) Before ecos systems begins the service owed, the customer must ensure that it has a complete and up-to-date data backup.

§ 4 Compensation

- 1) The amount of the remuneration depends on the respective individual contract and is to be paid without deductions in the manner regulated there. The amounts stated there are net amounts.
- 2) Ongoing costs apply from the moment the “technical system” is available in the case of rental or the provision of the respective “managed services”.
- 3) ecos systems is entitled to change the fee level by an appropriate amount, but a maximum of 2.5%, 12 months from the time of entering into the contract or the time of the last increase, on the condition that this increase is reasonable for the client and the client has been communicated in writing at least six weeks before the change comes into force.
- 4) The client is also obliged to pay the usage fee that arises from the authorized or unauthorized use of access by “third parties” to the “technical system”, unless he is not responsible for the use. The client is responsible for proving that he is not responsible for the use.

§ 5 Liability

The provisions of Section 9 of the framework agreement apply.

§ 6 Contract duration and termination

- 1) In principle, the beginning and ordinary termination options for the respective contractual relationship arise from the respective individual contract.
- 2) Unless otherwise agreed in the respective individual contract, the following applies: The respective individual contract is concluded for an unlimited period of time. Unless one of the two “contractual parties” terminates the contract in writing three months before the respective end of the term, the agreement is tacitly extended by a further 12 months and the period until December 31st of the year in which the contract would be terminated without extension. The following terms then begin on January 1st. and end on December 31st. of a year.
- 3) The right of each contracting party to terminate the respective individual contract extraordinarily and without notice if there is good cause remains unaffected. There is an important reason for ecos systems in particular in every case in which
 - a) the client is in default within a period of more than three months;
 - b) the client is insolvent or insolvency proceedings have been opened against his assets or the application to open insolvency proceedings has been rejected due to a lack of assets; However, after an application to open insolvency proceedings against the client's assets, ecos systems may not terminate the contract due to a delay in the payment of remuneration that occurred in the period before the application for opening or due to a deterioration in the client's financial circumstances;
 - c) the client violates essential contractual obligations and does not immediately remedy this violation even after a warning or notification that the content has been blocked by ecos systems.

Part II

§ 7 Subject of the contract: rental of the platform

- 1) The platform specified in the respective individual contract, i.e. the hardware in combination with the “software” specified in the respective individual contract, is rented to the client. The interface to public data networks such as the Internet specified in the respective individual contract is also rented. The necessary supply services (e.g. electricity, cooling, etc.) for the operation of the rented “technical systems” are also provided.
- 2) The platform is the system on which the client's application data created with the “software” is stored. The software, together with the platform, is referred to as a technical system.
- 3) ecos systems will maintain and repair the “technical systems” during the term of the respective individual contract. “Availability” and maintenance windows can be found in the respective individual contract or its appendices.
- 4) The expansion of functions of the rented “technical systems” in general or the maintenance of compatibility with changing factual or technical requirements of the client is not the subject of the services owed.

§ 8 Subject of the contract: rental of the “standard software”

- 1) ecos systems rents the “standard software” to the client. The service description is part of the individual contract. Only those functions that are expressly documented in the service description and those functions that are not expressly mentioned but are absolutely necessary for technical reasons for the intended use of the “standard software” are owed. No further functional requirements than those mentioned above are required.
- 2) The right is transferred in accordance with Section 69c No. 4 UrhG, which enables the client to provide a numerically limited number of users with simultaneous access to the “standard software” via public data networks. The right is transferred in the number indicated in the individual contract, limited in time to the duration of the individual contract and regionally for the territory of the Federal Republic of Germany. No further usage rights are transferred.

§ 9 Updating the “standard software”

1) Delivery of “standard software” to establish compatibility

a) safety instructions

These can be seen from the respective individual contract.

b) Performance

ecos systems undertakes to provide “standard software” that ensures compatibility with the “system environment” that corresponds to the respective state of the art.

The “standard software” is also adapted to legal requirements within the scope agreed in the individual contract. If a corresponding agreement does not exist, ecos systems has no obligation to adapt the software outside of the normal release cycles of 6 months.

Furthermore, further adjustments to usage requirements that arise from the client's individual requirements, such as in particular to ensure compatibility with the "individual software", are not part of the service, unless otherwise agreed in the respective individual contract.

c) Process for customization

i) Technical adaptation to a changed “system environment”

Only “standard software” is provided that ensures compatibility with the “system environment” specified in the individual contract. The prerequisite is that ecos systems is expressly obliged to ensure compatibility. There are software versions that do not appear to be technically sophisticated enough. The client has no right to adapt the “standard software” if the use of the old version of the “standard software” is reasonable for the client and establishing compatibility would lead to a large number of problems, the solution of which would result in unreasonable costs for ecos systems would have.

ii) Changes in the law

Only “standard software” is provided, the use of which ecos systems believes is legally compliant. It is the responsibility of the client to check whether the application he is using the software is legally compliant.

If the change in the legal application of a specific public institution (authority or court) results in the need to change the “standard software” and ecos systems proves that a different interpretation of the standards is also permissible, the client has no right to the “Standard software” must be changed as part of the flat-rate rental fee if the change would lead to unreasonable consequences for the majority of ecos systems' clients. Corresponding requirements of the client must be agreed upon separately by means of a “change”, unless corresponding changes could be implemented by changing the parameters of the “standard software”.

Furthermore, within the scope of the rental agreement, ecos systems is not obliged to check the legal situation or application of law in the respective regions in which the client operates. If the client provides information about a change in the legal situation, ecos systems will check whether and, if necessary, at what point in time the “standard software” needs to be changed.

iii) Technical changes

Unless otherwise agreed, the client has no right to changes to the “standard software” within the framework of the respective individual contract. The “standard software” will be updated technically at ecos systems' own discretion. As part of the user groups, the client has the opportunity to make suggestions for possible further developments. ecos systems will seriously consider the client's suggestions. However, there is no entitlement to the realization/implementation of these suggestions.

iv) Individual software

Due to the imponderables that arise from establishing the compatibility of "Individual Software" and "Standard Software" with regard to the workload and associated costs, the "Individual Software" cannot be adapted within the scope of the rental agreement. ecos systems recognizes the general obligation to adapt the "individual software". Unless the parties agree to carry out a change procedure, the adjustment will be billed at cost.

d) Performance limit

The obligation to deliver new, compatible software also no longer applies if this is for ecos systems is associated with unreasonable costs. The unreasonableness is indicated if the personnel costs required for the adaptation of the standard software in the year in which the adaptation service is to be provided are 10% higher than when the contract was concluded, the increased personnel costs cannot be compensated for by higher profits or other cost savings and since then At least one year has passed since the start of the rental agreement. In such a case, ecos systems is entitled to the parties entering into discussions about adjusting the remuneration or performance. If such discussions do not take place or do not lead to a consensus within a period of 3 months, ecos systems has the right, apart from other agreements , to terminate the contract with a notice period of 6 months.

2) Delivery of improved software

ecos systems provides the client with "upgrades" of the "standard software" after they have been released by ecos systems and unless otherwise specified below. These "upgrades" contain extensions and improvements to the "standard software". However, there is no right to improvement.

3) operation manual

If the operation of the "standard software" changes or new functions are added, the operating instructions for the program will also be updated.

§ 10 Special regulations for testing "standard software"

- 1) "Software" is provided on a test basis free of charge. The "software" is therefore loaned for the term of the contracts. No warranty is given. The client is responsible for independently backing up the data.
- 2) The purpose of providing the "software" for testing during the test phase is so that the client can convince himself of the quality of the "software". The software may neither be used by the client for commercial purposes nor left to third parties for commercial purposes.

§ 11 Warranty

ecos systems assumes the warranty for the "technical system" in accordance with the following regulations:

- 1) If the client changes the "software" or the "system environment", he bears the burden of proof that a "defect" exists.
- 2) "Defects" will initially be remedied at ecos systems' discretion through free repairs or replacement delivery.
- 3) The client is not entitled to eliminate "defects" himself and to demand reimbursement of the necessary expenses, provided ecos systems is willing and able to provide the service.
- 4) The client is obliged to report defects in the "technical systems" to ecos systems immediately. He will take ecos systems' advice on problem analysis into account within the scope of what is reasonable for him and forward all the information he has that is necessary to eliminate the defect to ecos systems.
- 5) Warranty claims expire 12 months from the time at which the client became aware of the existence of a defect in the "technical system" or from the time at which the client would have become aware of the circumstances of the defect and reported it without gross negligence. This does not apply in cases in which damage to life, limb or health was caused due to the "defect" and/or in cases in which the defect arose through gross negligence or intent and/or as a result of a breach of a guarantee . Claims under the Product Liability Act remain unaffected. Claims that arise from a violation of the obligation

to make improvements expire, subject to the reservation described above, 12 months after the moment of knowledge or grossly negligent ignorance of the defect.

§ 12 License Terms

- 1) For the term of the respective individual contract, the client receives the non-exclusive and revocable right to “use” the rented “software” for his own use as part of his business operations, i.e. he receives the right of access via public data networks from places and at times of his choice . Access to the rented “software” may only be made available to “third parties” for commercial use with the express consent of ecos systems. The right is transferred for a limited period of time for the duration of the respective individual contract, which, like the number of simultaneous access and usage authorizations, results from the respective individual contract. The subject of these regulations is the rented “software” in the current version at the time the contract is concluded, including all “releases” that are necessary to maintain the functionality of the “software”.
- 2) License terms for hosting: If the client rents firmware, operating systems, firewalls, virus scanners and other products, the transfer of usage rights is governed by paragraph 1. If there are special restrictions according to the general terms and conditions of the respective manufacturer, the respective EULAs (EndUserLicenceAgreement ⇔ terms of use for end users) will be made available to the client upon conclusion of the contract and are therefore part of the contract.
- 3) The regulations for the transfer of usage rights that were made between the parties for “standard software” also apply to “custom software”. According to the specifications of the individual contract, the parties can make an agreement according to the content of which ecos systems' named competitors of ecos systems will not receive the “individual software” for a period of 12 months, calculated from the time of acceptance (work contract) or transfer (service contract), made available for commercial purposes.

§ 13 Place of fulfillment

The place of performance and the place of fulfillment arise from the respective individual contract.