

General Terms and Conditions of eXept Software AG

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§ 1 Scope of the conditions

- (1) The deliveries, services and range of products of eXept Software AG (in the following referred to as eXept) are carried out based exclusively on these terms and conditions of business.
- (2) Deviations from these terms and conditions of business are only effective if they have been confirmed in writing by eXept.
- (3) In commercial business transactions, the general terms and conditions shall also apply for all future business relationships even if they are not expressly restated and agreed upon again.
- (4) In addition, the regulations set forth in the software licensing conditions and in the maintenance conditions shall apply.

§ 2 Conclusion of the agreement

- (1) Offers contained in brochures and advertisements etc. are subject to confirmation and nonbinding which also applies to the indicated pricing. eXept honors specially developed offers for 30 calendar days.
- (2) The ordering party is bound to its order for four weeks. To become legally enforceable orders require eXept's written confirmation. If eXept does not reject acceptance within four weeks upon receipt of the order, confirmation is deemed to have been issued.
- (3) Employees and agents of eXept are not authorized to issue verbal subsidiary agreements or to state verbal assurances of parameters. Such subsidiary agreements and assurances only become effective if eXept confirms them in writing.

§ 3 Pricing and price changes

(1) The prices stated in the order confirmation plus the respectively applicable statutory sales tax shall be authoritative.

(2) If delivery takes place later than four months after conclusion of the contract - for legal entities under public law, special funds under public law or business people, for whom the contract constitutes part of their trade operations, later than two months after the conclusion of the contract - eXept shall be entitled to demand an appropriate increase of the purchase price under the condition that the conditions applicable at the time of the conclusion of the contract, which were the deciding factor for the determination of the purchase price, in particular the supply price of the manufacturer, importer or costs of material, wages and salaries etc. have changed.

The ordering party shall be entitled within a period of 14 days upon notification of the price increase to withdraw from the contract if the price change amounts to more than 5% of the order value total. The withdrawal shall be executed in writing. The services provided by eXept up to that point shall be compensated in accordance with the contractual agreement. Damage claims shall be excluded in case of an exercising of the right to withdrawal.

§ 4 Shipment, risk assignment, and acceptance

(1) eXept strives to meet the agreed-upon or stated delivery due dates.

(2) In the event that such will be exceeded by more than four weeks, the ordering partner shall be entitled to demand an appropriate extension period. This extension period must be at least two weeks. The extension period starts with the receipt of the extension notification at eXept's office.

(3) If there is no mutual agreement concerning a new delivery date or if eXept does not meet the new delivery due date, the ordering party may withdraw from the contract upon expiration of the extension period. The withdrawal shall be executed in writing.

(4) Damage claims are excluded to the extent that the damage is not the result of willful misconduct or gross negligence through eXept, its legal representatives or agents.

(5) The acceptance of the goods occurs with its initial operation, usually with its installation, no later than four weeks after its delivery to the ordering party.

§ 5 Shipment and transfer of risk

(1) The risk shall transfer to the ordering party as soon as the shipment has been handed over to the person carrying out the transport or when it has left the premises of eXept for shipment. If the shipment is delayed upon request by the ordering party, the risk shall be transferred with the notification of the readiness for shipment.

(2) This shall also apply if eXept has assumed transport costs.

(3) Claims due to damage during transport need to be asserted by the ordering party directly with the shipping company within the time period intended for such purpose.

(4) Upon request by the ordering party, shipments shall be insured in the ordering party's name and at its expense.

(5) For shipments from the ordering party to eXept, the ordering party shall bear any risk, in particular the transport risk, until the goods arrive at eXept's site.

§ 6 Warranty for products

(1) eXept guarantees freedom from defect corresponding to the respective state of technology for the model of the object of the agreement.

(2) The warranty period shall be 12 months. It shall start with the date of delivery.

(3) Obvious defects must be reported to eXept immediately in writing, however, no later than within two weeks after delivery. Other defects must be reported to eXept within two weeks after detection of the defect. A violation of the aforementioned obligation excludes any warranty.

(4) The defective delivery items are to be made available for an inspection through eXept while being in the same condition as when the defects were detected or shall immediately be mailed to eXept upon request in their original packaging with a statement concerning the objection, if necessary with the utilized device model.

(5) The rectification of defects is handled through remediation. If the defect cannot be remedied or if additional remediation attempts would be unreasonable for the ordering party, the ordering party may choose to demand a cancellation of the agreement (annulment) or a reduction of the compensation (mitigation).

(6) A liability for normal wear and tear and for damages that arose due to improper use shall be excluded.

(7) For the acquisition of expecco products, the provisions in the Licensing Agreement shall be valid upon a deviating basis.

§ 7 Limitation of liability

(1) eXept shall be liable for defects of the object of the agreement in case of intent or gross negligence in accordance with statutory regulations. In all other cases, pursuant to the product liability law eXept shall only be liable for the injury of life, body, or health or for the culpable violation of essential contractual obligations, or to the extent that eXept has maliciously concealed the defect (in case of malicious intent the statutory statutes of limitations as applicable without the presence of malice shall apply), or if eXept has accepted the warranty for the characteristics of the object of agreement. However, a damage claim in conjunction with the breach of essential contractual obligations shall be limited to contracttypical,

foreseeable damage. The liability for damages caused by the object of agreement to legally protected assets of the customer, however, shall be fully excluded. The provision of Items 2 and 3 of this clause shall not apply if this was a case of intent or gross negligence or if the liability applies due to an injury of life, body, or health or to the extent that eXept maliciously concealed the defect or has accepted a warranty for the characteristics of the object of agreement.

(2) The provision of the aforementioned Item 1 extends to the compensation for damages in addition to the service and to the compensation for damages in lieu of the service, regardless of the legal basis, in particular as a result of defects, the violation of contractual obligations, or an illegal act. This shall also apply to the claim for reimbursement of expenses that did not lead to satisfactory results.

(3) All claims of the ordering party under the warranty or due to the violation of contractual ancillary obligations shall expire 12 months after acceptance. (§ 4 Para. 5)

§ 8 Retention of title

(1) Until the contractual obligations due to eXept under the agreement have been met, the object of the agreement shall remain the property of eXept. The retention of title shall also

remain in effect for all liabilities of the ordering party toward eXept in conjunction with the object of the agreement that eXept acquires retroactively, e.g. due to repairs or other services.

(2) If the ordering party is a legal entity under public law, a special fund under public law, or a business person, for whom the agreement constitutes part of their commercial trade operations, the retention of title shall also apply for all accounts receivable of eXept due to eXept's on-going business relationships with the ordering party, including all balance claims of the current account.

(3) While the retention of title is in effect, the ordering party shall be entitled to hold and use the object of the purchase agreement as long as the ordering party is meeting its obligations under the retention of title and its obligations set forth by the business relationship in a timely fashion.

(4) If the ordering party has recorded data on data carriers supplied by eXept that are still the property of eXept, the ownership of eXept shall not be effected thereby.

(5) In the event of third party access to the retained goods - in particular official bill collectors - the ordering party shall point out the ownership of eXept and shall notify eXept without delay.

§ 9 Payment

(1) Invoices from eXept are payable within 14 days net without any discount.

(2) eXept explicitly reserves the right to reject checks and notes. Acceptance shall always be carried out based on the account of performance. Discount and bill of exchange expenses shall be borne by the ordering party and shall be due immediately.

(3) eXept shall be entitled to allocate payments of the ordering party to older debts first regardless of differing pay-off instructions. In such case, eXept shall inform the ordering party about the manner of the applied payment transactions. If expenses and interest have already been incurred, eXept shall be entitled to first allocate the payments to such expenses, then to the interest and finally to the main service.

(4) The ordering party may only offset charges against the liabilities of eXept in conjunction with an undisputed or legally determined liability; the ordering party may only exercise a right of retention to the degree that such is based on the same contractual relationship. In the event the credit limit has been exceeded, eXept shall reserve the right to charge interest for default in the amount of 8% over the respective base interest rate of the European Central Bank, unless eXept presents proof for higher interest on default payments or the ordering

party can present proof of lower costs to eXept.

(5) The regulations of the consumer credit law shall remain unaffected by this regulation.

§ 10 Ordering party data

eXept shall be entitled to process and store data received in conjunction with the business relationship or in conjunction with these received data pursuant to the respective data protection laws.

§ 11 Applicable law, place of delivery and jurisdiction, partial nullity

(1) All legal relationships between eXept and its contractual partners shall be exclusively subject to the law of the Federal Republic of Germany.

(2) Place of delivery for all mutually applicable obligations shall be Bietigheim-Bissingen. Jurisdiction

for all disputes shall be Bietigheim-Bissingen, to the extent that a jurisdiction can be agreed upon effectively.

(3) The invalidity of individual items of these provisions does not change the effectiveness of the remaining provisions. The invalid provisions shall be replaced with provisions that come closest to the economic intent of the respective invalid provisions.

(4) To the extent that these General Terms and Conditions do not contain any deviating regulations, the legally applicable provisions shall apply.

Trademark

eXept is a registered trademark of eXept Software AG.



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