

1. Content and implementation

(1) Parties and subject matter. This contract regulates the legal relationship between Matrix42 AG, Elbinger Strasse in 60487 Frankfurt am Main (“**Matrix42**”) and its customers (“**Customer**”) in relation to the temporary transfer of software that is installed and operated on the hardware of the Customer. These Terms and Conditions of Business shall not apply, however, for the provision of software for use via the Internet (installation and operation on Matrix42 hardware); this shall be regulated by the “Matrix42 General Terms and Conditions of Business for Software as a Service”.

(2) No differing regulations. The application of differing provisions or provisions going beyond these regulations shall be excluded. This applies in particular for general terms and conditions of business of the customer, even if Matrix42 accepts a customer's order, in which the customer indicates its general terms and conditions of business and/or the general terms and conditions of business of the customer are attached and Matrix42 does not reject these.

(3) Obligations in electronic commerce. Section 312g (1) Nos. 1, 2 and 3 as well as Section 312g (1) sentence 2 of the BGB (German Civil Code), which provide for certain obligations of the entrepreneur in the case of contracts in electronic commerce, shall be waived.

2. Services of Matrix42

(1) Rights of use. For the software product specified in the service licence (“**Software**”), Matrix42 shall grant the Customer the non-exclusive, non-transferable and non-sublicensable right limited for the respective term of this contract (see section 9) to use the Software for its own business purposes solely in the pursuit of its commercial or independent professional activities. This right of use shall be limited to the number of usage units ordered by the Customer (e.g. number of users or managed devices) pursuant to the service licence.

(2) Provision. Matrix42 shall provide the Customer with an executable version of the Software either as a download or on a disk, according to the choice of Matrix42.

(3) Installation. The Customer itself shall perform the installation and initial set-up of the Software (individual settings or import of data). A change to the Software, in particular a reprogramming at the request of the Customer, shall not be owed. Respective service performances must be agreed and remunerated separately (see Matrix42 T&C Services).

(4) Support. Matrix42 provides a free online support system to assist in the use of the Services. The support does not include: general know-how transfer, training, configuration and implementation or customer-specific documentation or customisation of the software. Support is provided by e-mail at helpdesk@matrix42.com, by telephone: **+49 (0) 6102 816 140**, on the Service portal or the online forum. The support services are provided by Matrix42 on work days Monday to Friday between 08:30 – 17:00 (CET). Exceptions to this shall be public holidays in Hessen and 24. and 31. December of each year. Inquiries received outside of these support hours shall be deemed as received during the next work day.

(5) Adjustment of the Software. Matrix42 may change the Software (including the system requirements for this) to bring it in line with technical or economic market changes and for good reason. A good reason shall exist, in particular, if the change is required, due to (i) a necessary adjustment to a new legal position or jurisdiction, (ii) changing technical framework conditions (new browser versions or technical standards), (iii) the protection of system security, or (iv) the further development of the Software (to clarify: no further development of the Software shall be owed by Matrix42, however, under the Software leasing contract). Matrix42 shall notify the Customer by e-mail of any change that will adversely affect the latter in good time, usually two weeks before the implementation of this. The Customer's consent to such a change shall be deemed granted if the Customer does not object to the change in writing or by e-mail by the change deadline. When notifying of the change, Matrix42 shall make reference to this legal consequence again separately. If the change were to disrupt the balance between the contractual parties not merely insignificantly to the detriment of the Customer, the change shall not be made.

3. Remuneration and default of payment

(1) Payment structure. The Customer shall owe Matrix42 for the provision and granting of rights of use to the Software during the term of the contract the remuneration agreed in the service licence. Unless otherwise agreed in the latter, remuneration shall consist of a regular licence fee.

(2) Payment of the licence fee. Unless otherwise stipulated in the service licence, the licence fee shall be due in full in advance at the beginning of the contract for the basic term of the contract (see section 7(2)) and then at the beginning of each renewal term (see section 7(2)) for each respective renewal term. An increase in the number of usage units ordered (or a change to a higher service package) shall be possible at any time; a reduction (or change to a lower service package) shall be possible only with effect from the end of the basic term or any renewal terms, or earlier with the consent of Matrix42. In the event of an increase in the number of usage units ordered during the basic term or a renewal term, the additional fees shall be charged on a pro rata basis. For the additional usage units, the prices corresponding to the Matrix42 price list valid at the time of the ordering of the additional units shall apply.

(3) Invoicing. Matrix42 shall invoice the fees in advance at the beginning of the contract and subsequently at the beginning of each renewal term. The invoice amount shall be payable within 30 days.

(4) Net prices. Prices shall be quoted exclusive of the respective statutory value-added tax (VAT).

(5) Default of payment. Should the Customer default in the payment of the remuneration or a substantial portion of the remuneration for two calendar months or in a period extending over more than two months default in the payment of the remuneration to an amount corresponding to twice a monthly licence fee, Matrix42 shall be entitled, after a warning to this effect by e-mail or letter, to exercise extraordinary termination of the contract and/or activate a block on the use of the Software.

(6) Price changes. Matrix42 shall be entitled to increase or reduce the prices agreed with the Customer upon the expiry of least 12 months from the effective date of the last price change respectively (but no earlier than 24 months after the conclusion of the Software leasing contract) with effect from the beginning of the following renewal term. Such a price increase may not amount to more than 5% per year of contract, unless the labour costs of Matrix42 for the provision of the service have risen by more than 5% per year of contract. The revised prices shall take effect if (i) Matrix42 announces them to the Customer in advance in writing or by e-mail at least six weeks prior to them taking effect, and (ii) the Customer does not object to them in writing or by e-mail within six weeks of notification. When notifying of the price change, Matrix42 shall make reference to this legal consequence again separately. If the Customer objects, the existing prices shall continue to apply. Matrix42 shall have the right to ordinary termination of the contract in accordance with section 7(1).

4. Responsibilities and obligations of the Customer

(1) Back-up copies. It shall be the responsibility of the Customer to export copies of the data it enters on a regular basis and to make back-up copies or to print out and keep the relevant information.

(2) Lawful usage. The Customer shall use the Software only within the framework of the contractual and legal provisions.

(3) System requirements and obligation to cooperate. Customer hardware and software requirements and organisational requirements as well as the Customer's duties to cooperate can be seen in the Software documentation.

(4) The Customer agrees subject to revocation at any time by email to info@matrix.com or in writing, that Matrix42 shall be entitled to utilize Customers name and company logo online and offline for promotional purposes for the software products of Matrix42, in particular in print media and via databases, electronic data networks and online services (e.g. FTP, WWW, email, Youtube, Flickr, Facebook and similar networks), to duplicate them, to distribute them, to make them available for download, to publish them and to present them.

The Customer further agrees to be available for new customers - subject to an appointment in advance - regarding any questions pertaining to the software of Matrix42 that he uses.

5. Claims for defects

(1) Rectification of defects. The Customer must notify Matrix42 immediately of any defects in the service and explain in detail the circumstances surrounding the occurrence of these. Matrix42 shall rectify the defect within a reasonable time period. Matrix42 shall be entitled to circumvent the defect by means of a workaround solution, if the cause of the defect itself can be rectified only with disproportionate effort and the usability of the service is not significantly impaired. Matrix42 may also rectify the defect through the provision of a new Software version.

(2) Updates / upgrades. Matrix42 shall transfer and maintain the Software in a condition suitable for the contractual use. The duty to maintain does not include adjustment of the software to changed operating conditions and technical and functional developments, such as the change in the IT environment, in particular change to the hardware or the operating system, adjustment to the functionality of competing products or establishment of compatibility with new data formats. Matrix42 does, however, offer additional updates and upgrades subject to separate agreement and remuneration (see Matrix 42 T&C Maintenance and Support).

(3) Initial impossibility. The strict liability for initial defects in accordance with Section 536a (1), Clause 1 of the German Civil Code (BGB) shall be excluded.

6. Liability

(1) Matrix42 shall be liable for damages, insofar as these

- were caused by the wilful or gross negligence of Matrix42, or
- were caused by slight negligence by Matrix42 and result from significant breaches of obligations that jeopardise the achievement of the purpose of this contract, or from the breach of obligations, the fulfilment of which is prerequisite to enable the proper implementation of this contract and upon compliance of which the Customer should be able to rely.

In all other respects, the liability of Matrix42 shall be excluded, irrespective of the legal basis thereof, unless Matrix42 is liable as mandated by law, in particular on account of injury to life, body or health of a person, the assumption of an express guarantee, fraudulent concealment of a defect or in accordance with product liability law. Guarantees from Matrix42 shall be made in writing and shall be designated as such.

(2) Limitation in terms of amount. In the case of section 6(1) b), our liability shall be limited to € 500.000.

(3) Employees and representatives of Matrix42. The limitations of liability set out in paragraphs 6(1) and 6(2) shall also apply to claims against employees and representatives of Matrix42.

7. Term of contract and termination

(1) Term. The contract shall be concluded for a specific term as defined in the service licence (e.g. 12 months) ("**Basic Term**") and shall then renew automatically for the same period ("**Renewal Term**"), if the contract is not terminated by either party with a notice period of three months ("**Notice Period**") to the end of the Basic Term or a Renewal Term. The right to termination for good cause shall remain unaffected. For the reduction in the number of usage units, section 3(2) shall apply. If no Basic and/or Renewal Term is specified in the service licence, this shall be 12 months respectively.

(2) Form requirement. Termination must be made in writing.

(3) Deletion. When the contract expires, the Customer shall uninstall or delete the Software (including the licence key and licence certificates) completely and permanently. This shall apply also for installations on servers and other devices. Any data media provided must be returned to Matrix42. This shall apply also for the reduction of usage units. At the request of Matrix42, the Customer shall provide confirmation of the complete deletion and/or return of data media to Matrix42 in writing. Matrix42 shall be also authorised to activate a block on the use of the Software upon expiry of the contract term or to integrate a corresponding deactivation key into the Software in advance. The use of the Software on an alternate or subsequent configuration of the customer may not be significantly affected by this.

8. Final provisions

(1) Service licence. The service licence shall be a part of the contract. In the event of a conflict between these General Terms and Conditions of Business and the service licence, the service licence shall take precedence.

(2) Set-offs. The Customer may only offset or assert a right of retention with a claim other than its contractual counterclaims from the respective legal transaction concerned, if this claim is recognised by Matrix42 as undisputed or is legally established.

(3) Written form. Changes to this contract must be made in writing. This shall also apply to the waiver of the requirement for written form.

(4) Applicable Law. This Contract shall be exclusively subject to German law under exclusion of the UN Convention on Contracts for the International Sale of Goods.

(5) Place of jurisdiction. If the Customer is a merchant, a legal entity under public law or a special fund under public law, the place of exclusive jurisdiction shall be Hamburg.