

## GTC – General Terms and Conditions

### §1 General provisions

The following delivery terms form the basis of every contractual relationship between iXenso and its customers (the „Purchaser“). The customer accepts these terms at the latest upon receiving the service. Side agreements or conflicting terms and conditions of business of the contractual partner are not recognised unless they are expressly agreed in writing.

### §2 Offer and conclusion of contract

- a. Unless otherwise agreed, the offers from iXenso are always non-binding and subject to alteration. All contracts only come into effect after receipt of the written order confirmation of a previous official written order of the customer, but at the latest upon acceptance of the service.
- b. If a Purchaser who has placed an order subsequently cancels it without justification, we shall be entitled to demand payment of 10% of the contractually agreed price to cover costs for processing the order and loss of profit. This shall not invalidate any claim we may raise for higher actual damages.

### §3 Scope of delivery

- a. The scope of delivery shall be determined by our written order confirmation.
- b. The right to make changes to the design, shape or programming resulting from improvements to technology or new requirements set by the the legislator is reserved, provided that the nature of the deliverable is not significantly altered and the changes are reasonable for the Purchaser.
- c. Partial deliveries may be supplied within the period we have indicated for supply and delivery as long as these do not be impair the usability of the deliverables.

### §4 Delivery time and deadline

- a. Delivery times are non-binding, unless expressly agreed otherwise in writing. Any delivery period agreed in writing shall commence 3 days after the order confirmation is sent, however, not before any documents, permits, and releases, etc., that may need be provided by the Purchaser have been procured and the payment of an agreed first instalment has been received.
- b. The delivery period shall be met if, by the time the delivery period has expired, readiness for dispatch has been communicated or the deliverable has reached the customer. Unforeseen obstacles that are outside of our control and sphere of influence, e.g., disruptions to business, industrial disputes, and delays by third parties – especially with suppliers – shall cause the delivery period to be extended in accordance with the duration of such obstacles.
- c. If the customer is in arrears with its service, regardless of what contractual relationship with iXenso this service is based on, it cannot invoke an agreed delivery period.

### §5 Packaging and shipment

- a. A charge is made for packaging, which becomes the property of the Purchaser. Delivery costs and packaging expenses are invoiced separately. The choice of shipping mode is at our discretion.

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### §6 Acceptance and transfer of risk

- a. The customer is obliged to accept the deliverable. In the absence of any agreement to the contrary (delivery by us), the handover shall take place at the headquarters of iXenso.
- b. The Purchaser is obliged to check the deliverable immediately.
- c. The Purchaser shall be in default with the acceptance if it does not accept the service offered to it. If the Purchaser remains in arrears with acceptance of the object of purchase for more than one week, we shall be entitled, after setting a grace period of one further week, to withdraw from the contract or to claim damages for non-performance. We shall be entitled not to offer this grace period if the Purchaser has seriously or definitively refused to give its acceptance or is overtly not able to pay the purchase price within this period.
- d. The risk shall transfer to the Purchaser upon acceptance of the deliverable. If the Purchaser is in default of acceptance, the risk of accidental loss or accidental deterioration of the deliverable shall pass to the Purchaser at the time of refusal.  
In the event that goods are dispatched, the risk shall pass to the Purchaser as soon as the item has been delivered to the freight forwarder, the carrier or the person or company otherwise designated to carry out the shipment.

### §7 Changes in prices

- a. Changes in prices are permitted if more than three months lie between the point of conclusion of the contract (date of order confirmation) and the agreed delivery date. iXenso shall then be entitled to reasonably increase the contractually agreed price in accordance with cost increases. This shall not entitle the Purchaser to withdraw from the contract.

### §8 Warranty

- a. We accept liability for defects in the deliverables as follows:

For a period of twelve months after the deliverable has been taken over, the Purchaser has the right to eliminate errors (subsequent improvement). If we cannot rectify an error that is subject to our warranty obligation or if further attempts at subsequent improvement are unreasonable for the Purchaser, the Purchaser can request annulment (rescission of the contract) or a reduction (a decrease in the remuneration) instead of subsequent improvement. Longer statutory limitation periods for liability and warranty claims remain unaffected. Natural wear and tear shall in no event be covered by the warranty.

- b. Liability for damages is excluded – regardless of the legal grounds. Any preclusion or limitation of our liability shall also apply to the personal liability of employees, representatives and vicarious agents. This limitation of liability shall not apply if the cause of the damage is due to intent and/or gross negligence. It shall also not apply to claims under the Product Liability Act. Insofar as we negligently violate an essential duty under the contract, the obligation to pay compensation shall be limited to the damage that typically arises. The above limitations of liability shall not apply insofar as the minimum statutory provisions of German product liability law apply. Liability for consequential damage is excluded, except in the case of intentional damage on our part; in the event of data loss, it shall be assumed that this was due to insufficient data backup.

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### §9 Retention of title

- a. The deliverables shall remain our property until paid for in full.
- b. Should the Purchaser contravene the terms of the contract, especially by being in default with payment, we shall be entitled to repossess the goods after having provided advance written warning of this and set a reasonable deadline, and the Purchaser shall be obliged to hand them over.
- c. Our assertion of retention of title and garnishment of the deliverables shall not be classed as withdrawal from the contract, unless the provisions of the Consumer Credit Act apply or this is expressly declared by us in writing. When used against merchants, a juristic person under public law or a special fund under public law, the following shall also apply:
  - d. Except in the case of the granting of rights of use of software products, the Purchaser shall be entitled to resell the deliverables within the ordinary course of business; however, it hereby already assigns to us all receivables, in the amount of the purchase price (including VAT) agreed between us and the Purchaser, which the Purchaser accrues from their resale, regardless of whether the deliverables are resold without or after processing. The Purchaser shall have the authority to collect these receivables after their assignment. Our authority to collect receivables ourselves shall remain unaffected by this; however, we undertake not to collect receivables as long as the Purchaser properly fulfils its payment obligations and is not in default with payment. However, if this is the case, we are entitled to demand that the Purchaser make known the assigned receivables and their debtors, provide all information necessary for their collection, submit the associated documents and inform the debtors (third parties) of the assignment.
  - e. Any processing or transformation of the goods by the Purchaser shall always be undertaken on our behalf. If deliverables are processed with other items not belonging to us, we shall acquire joint ownership of the new object in the proportion of the value of the deliverables in relation to the other processed items at the time of processing.
  - f. If the deliverables are inseparably combined with other items not belonging to us, we shall acquire joint ownership of the new object in the proportion of the value of the deliverables in relation to the other combined goods. The Purchaser shall hold safe custody of the joint property on our behalf.
  - g. The Purchaser may neither pledge the deliverables nor assign them as security. In the event of garnishments, confiscation or other dispositions by third parties, the Purchaser must inform us of these immediately and provide us with all information and documents that are necessary to safeguard our rights. Enforcement officers or any third party, as the case may be, must be informed of our ownership.
  - h. We undertake to release the securities to which we are entitled at the Purchaser's request to the extent that their value exceeds that of the receivables to be secured by them – insofar as these have not yet been settled – by more than 20%.

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### §10 Software

- a. If the subject of the contract is a software service (computer programs...), the Purchaser is granted a simple right of use for each licence acquired. Without our express written consent, the Purchaser shall not be entitled to copy the programs or otherwise reproduce them or, contrary to the contractual licence agreements, transfer them to companies other than the affiliated companies for use.
- b. Any transfer of source codes or executable programs to third parties, whether for a fee or for free, is excluded. The Purchaser shall not use these source codes for further marketing to third parties outside of its own and affiliated companies.
- c. If the Purchaser violates this right of use, it shall be liable in full for the resulting damage. iXenso shall also be entitled to demand compensation from the licensee in the amount of EUR 25,000 for each licence violation.

### §11 Liability from tort

- a. Claims for compensation as a result of tort will not be accepted, except where the damage was caused deliberately or as a result of gross negligence. This also applies to the actions of our subcontractors and vicarious agents; in all other respects, Section 8b. shall apply.

### §12 Payment terms

- a. The purchase price and the fees for ancillary services shall be due for payment upon handover of the deliverable.
- b. Unless otherwise separately agreed in writing, the following divergent payment terms shall apply in the case of program installations:
  - Software licences shall be payable in full immediately upon conclusion of the contract
  - 50% of the service shall be due upon conclusion of the contract
  - 50% shall be due upon installation or acceptance, and, at the latest, when the program is used
- c. Cheques and bills of exchange shall be deemed paid only after they have cleared. Payment via bills of exchange requires prior written agreement with us. If bills of exchange are accepted, the discount and collection charges of the bank will be charged. They are to be paid immediately in cash.
- d. We charge default interest at 5%, or 8% p.a. for registered traders, above the relevant base interest rate. The level of interest will be set higher or lower if we suffer damage at a higher level of interest or if the Purchaser can prove a lower level of damage, as the case may be.
- e. Offsetting against counterclaims shall only be permitted if the Purchaser's counterclaims have been established by a court of law.

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### §13 Place of performance and jurisdiction

- a. The place of performance shall be iXenso's headquarters.
- b. As far as legally permissible, the place of jurisdiction shall be iXenso's headquarters. The relevant law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods.

### §14 Miscellaneous

- a. Any assignment of rights and duties of the Purchaser's under the contract entered into with us requires our written consent to be legally valid.
- b. Should any provision be or become void, this shall not effect the validity of the other provisions.
- c. After prior written agreement with the Purchaser, iXenso shall be entitled to commission third-party service providers and vicarious agents to perform the range of services, in whole or in part.
- d. Any amendments to these General Terms and Conditions will be published and communicated to the customer in writing at least 4 weeks before they come into effect. For this purpose, a reference to the Internet address at which the new version can be called up shall be sufficient, instead of enclosing a complete text of the General Terms and Conditions. If such amendments are not objected within one month of notification, they shall be deemed accepted, if the customer is a registered trader.
- e. Any amendments to the contract, addenda and side agreements must be made in writing to be valid, insofar as these GTC do not determine otherwise. This also applies to any waiver of this requirement for the written form.