

# **End User Terms for Intelligent Licensing as a Service (ILiaaS) ("Terms of Use")**

Version 1.0 from 24.03.2020

## **1. Introduction**

### **1.1 Contracting parties**

aConTech GmbH, Mohnweg 9 - 90768 Fuerth, Germany, ("Provider") offers its customers ("Users") the ILiaaS App (in the following "App") as a service via Microsoft App Stores and/or the ALSO Cloud marketplace ("App Store Operator") and directly as a product package.

The contractual partner of the users is the Provider. The App Store Operator is not the contractual partner of the User for the use of the App or the contents of the App.

### **1.2 Subject**

In order to use the App, the user must accept these Terms of Use. By way of accepting, the User agrees to the contract with the Provider about the use of the App. The App Privacy Policy is stated within the Special Product Terms and applies to the handling of the User's data.

## **2. Rights of use**

### **2.1 Scope**

By accepting these Terms of Use, the User receives a non-exclusive, non-sublicensable, non-transferable right to use App including the contents retrievable via it for the duration of the use of App in accordance with these Terms of Use. All rights according to these Terms of Use are granted to the User under the condition that the applicable law at the User's location ("local law") permits the use of App.

### **2.2 Third party content/links, special contents**

The Provider or other users of the App can provide links to websites of third parties and contents that can be retrieved therefrom. Access to and use of additional content may require the conclusion of further agreements for that content.

### **2.3 Term and termination**

The granting of the rights of use is conditional upon compliance with these Terms of Use. If the User violates these Terms of Use, the rights of use to the App including provided content automatically cease to apply.

The User may stop using the App at any time. Rights of use end with deletion of the App.

The Provider has the right to terminate the contract about using the App at any time with a notice period of one month. The User has the right to terminate the contract about using the App at any time with a notice period of 4 weeks to the end of the contract renewal date (yearly contract signing date). With the effective date of the termination, all rights of use cease to apply. In case subscriptions have been prepaid, the Provider will reimburse User on a pro rata basis in case of termination by the Provider.

### **3. Obligations of the User**

The User may only use contents of App for its own purposes and may not make them accessible to the public, unless the provider expressly permits this.

The User is obliged to use App only lawfully in accordance with these Terms of Use and in accordance with the applicable law.

The Provider may provide the User with various communication options for his own content and contributions, which the User may use within the scope of the respective availability. There is no right to ask for the provision of such communication possibilities.

It is technically not intended and also not permitted to transfer, publish, license, sell or otherwise commercially exploit App to third parties against payment or free of charge.

It is not allowed to modify, adapt, translate, create derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive the source code of the App. Legal powers remain unaffected, in particular the right of the user to decompile App in order to obtain the necessary information for the creation of interoperability with other programs, if the provider does not make these available to him on reasonable conditions.

The User is prohibited from changing, copying, reproducing, publishing, uploading, posting, transmitting, renting, selling, licensing or otherwise making available any content retrievable via App in whole or in part without the express permission of the Provider. Existing rights to the User's own content remain unaffected.

### **4. Warranty**

The App is made available as offered in the App store. Provider in particular does not warrant that the App is fit for any purpose the User may seek nor that the App is compatible or does not interfere with any third party software or hardware other than stated within the App description in the AppStore or the Special Product Terms (SPTs) of the App. No special guarantees are assumed. Guarantee promises are not given.

### **5. Payment**

Unless expressly agreed otherwise, User will be invoiced by provider per user/instance on a monthly basis and on the basis of the applicable price list (e.g. regarding additional fixed monthly fees, installation fees). The User is obligated to provide the number of users/instances on a yearly basis.

## **6. Liability**

### **6.1 Liability of the Provider**

In accordance with the legal situation, the Provider is liable without limitation for intent or gross negligence, for injury to life, limb or health, in accordance with the provisions of the Product Liability Act and to the extent of a guarantee expressly assumed by the provider elsewhere.

### **6.2 Limitation of liability**

Any liability of the Provider, its legal representatives, vicarious agents and employees for damage caused by slight negligence is excluded, with the exception of liability according to clause 6.1.

This shall not apply in the event of a breach of material contractual obligations. Essential are obligations (i) where the breach endangers the fulfilment of the purpose of the contract or (ii) which enable the proper performance of the contract in the first place and on the observance of which the other party may regularly rely. In this case, however, the provider shall only be liable for the foreseeable damage typical to contract.

## **7. Blocking of services**

The Provider is entitled to block access to the App or the service behind for the customer at any time to avoid damage, liability or sanctions or for a comparable reason, especially then and as long as the customer violates laws or violates or contradicts with the Providers or with Microsoft agreed conditions (e.g. also unpaid invoices after payment due date).

The Provider will inform the customer immediately of any blocking, the reasons for this and inform them of the planned duration.

In the event of permanent blocking, the Provider is entitled to cancel this agreement for important reasons without observing a deadline. In this case, the customer of the Provider has to replace all damages including any lost profit, which usually consists in of the agreed remuneration from the customer until the end of a possible ordinary termination.

## **8. Infringement**

The User must remove any content complained about by the provider immediately. The Provider expressly reserves the right to remove such content itself.

Without prejudice to any other legal or contractual rights, in particular the right to terminate for cause, Provider may, at its reasonable discretion, take one or more of the following measures if there are actual indications that a User has violated these Terms of Use or the applicable supplementary terms and conditions, unless the User is not responsible for the violation

- a) modify or delete content,
- b) warning of a user,
- d) temporary ban; and
- e) exclusion of a User with future effect.

## **9. Final provisions**

### **9.1 Reservation of right to make changes**

Provider reserves the right to change these Terms of Use. The Provider will send the user the amended Terms of Use by e-mail at least 30 days before they come into effect and will point out the intended validity of these new Terms of Use for a current contract as well as the User's right to object to the validity of these Terms of Use. Changes can affect the introduction of further functionalities or contents. If the User does not object to the validity of the new Terms of Use within this period or uses the contents of the offer after the amended Terms of Use have come into force, the new Terms of Use shall be deemed accepted. The Provider will inform the User of the significance of the 30-day period, the right of objection and the legal consequences of silence in an appropriate form.

### **9.2 Ineffectiveness of individual clauses**

Should individual provisions of these Terms of Use be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions.

### **9.3 Applicable law**

With regard to the contract about using the App and any claim, rights and obligation out of or in connection with this contract, the law of the Federal Republic of Germany shall apply, and the UN Convention on Contracts for the International Sale of Goods is excluded. The courts of Fuerth, Germany, shall have exclusive jurisdiction.