

Terms and Conditions

§ 1 Scope

(1) These General Terms and Conditions (“GTC”) apply to all business relationships between Modaxo Group Germany GmbH, ebblo Germany GmbH, and ebblo Switzerland GmbH (in each case, the company designated as the contracting party in the offer, order confirmation, purchase order, or individual contract; hereinafter “MODAXO”) and their customers (hereinafter “Customer”).

(2) These GTC apply to all deliveries and services provided by MODAXO, in particular to (a) the provision of standard software, software licenses, and updates, (b) related implementation, migration, training, consulting, support, and maintenance services, (c) the delivery of hardware products, devices, components, spare parts, and accessories, as well as (d) pre-contractual obligations.

(3) Even if this is not mentioned again upon the future conclusion of similar contracts, the MODAXO Terms and Conditions shall apply exclusively in the version available at the time the Customer submits their declaration at www.MODAXO.de/agb, and , unless the contracting parties agree otherwise in writing.

(4) The Customer’s general terms and conditions shall not apply, even if MODAXO does not expressly object to them or provides services without reservation. Any deviating, conflicting, or supplementary terms and conditions of the Customer shall only become part of the contract if MODAXO expressly agrees to their validity in writing.

(5) To the extent that third-party software, open-source software, cloud services, or other third-party services form part of the contract, the respective license, usage, or service terms of the third-party provider shall apply in addition, provided that these are made available to the Customer or are accessible in accordance with industry standards. In the event of any conflicts, such third-party terms shall take precedence only with respect to the relevant third-party service.

§ 2 Conclusion of Contract

(1) Offers from MODAXO are subject to change and non-binding unless they are designated as binding in writing. A legal obligation arises only through a contract signed by both parties or through a written order confirmation by MODAXO, as well as by MODAXO commencing performance of the service following the order.

MODAXO may require written confirmations of the customer’s oral contractual declarations.

(2) The customer is bound by their declarations regarding the conclusion of contracts for a period of two weeks.

§ 3 Subject Matter of the Contract, Scope of Services

(1) The subject matter of these contractual terms is solely the delivery of standard software and the granting of rights of use pursuant to § 4, as well as the services ordered at the time of purchase and other services defined under § 1 (2). Public statements, product presentations, trial versions, brochures, website information, and other pre-contractual information are merely service descriptions and do not constitute guarantees or agreements regarding quality, unless expressly agreed upon in writing as such.

(2) Prior to the conclusion of the contract, the Customer has verified that the software specifications meet its wishes and needs. The Customer is familiar with the essential functional features and conditions of the software.

(3) Unless expressly agreed otherwise, the Customer shall receive the software exclusively in object code. There is no entitlement to the release of source code, development documents, build environments, or internal documentation.

(4) MODAXO provides goods and services in accordance with the state of the art at the time the contract is concluded. Software is not error-free and, in particular, cannot be operated without disruption under all conceivable conditions of use. An insignificant deviation from agreed or customary characteristics does not give rise to any rights on the part of the Customer.

(5) MODAXO is entitled to modify services or replace them with equivalent services, provided this is reasonable for the Customer, particularly if this serves the purposes of technical advancement, IT security, compatibility, stability, maintainability, or compliance with legal requirements.

§ 4 Rights of the Customer to the Software

(1) Software, documentation, concepts, specifications, training materials, work results, designs, data models, interface descriptions, and other items provided by MODAXO are legally protected. All copyrights, trademark rights, patent rights, database rights, know-how rights, and other intellectual property rights remain with MODAXO or its licensors.

(2) Rights of use for standard software or third-party software products are governed by the

license terms of the respective software manufacturer and are granted to the Customer through so-called End-User License Agreements (“EULA”) or comparable provisions. The Customer shall ensure that anyone using services provided by MODAXO and/or third parties complies with these provisions.

(3) The Customer receives a simple, non-exclusive, non-transferable, and non-sublicensable right of use to the delivered software to the extent contractually agreed. Unless expressly agreed to be limited in time, the right of use is indefinite in duration; however, it is subject to the condition precedent of full payment of the remuneration owed.

(4) The Customer acquires the same rights to modified, expanded, or newly created software as to the standard software. To the extent that the newly provided items replace items already delivered, the rights granted to the previous items expire at the times when the new items become usable.

(5) The Customer may use the software only for its own internal business purposes and only to the agreed extent, in particular with regard to the number of users, devices, instances, vehicles, clients, locations, systems, transactions, or interfaces. Use by affiliated companies, external service providers, data centers, outsourcing partners, or other third parties requires the prior written consent of MODAXO, unless expressly agreed upon.

§ 5 Delivery and Performance Times, Transfer of Risk

(1) Information regarding delivery and performance dates is non-binding unless MODAXO has designated it as binding in writing. MODAXO may provide partial performance to the extent that the delivered parts are reasonably usable by the Customer.

(2) Deadlines shall be extended by the period during which MODAXO is prevented from performing due to circumstances beyond MODAXO's control, plus a reasonable restart period. These include, in particular, force majeure, labor disputes, government measures, cyberattacks, failure of telecommunications, energy, or cloud infrastructure, disruptions at third-party providers, supply chain disruptions, and late receipt of supplies despite proper procurement.

(3) If, despite proper procurement, MODAXO is not supplied, not supplied on time, or supplied only on significantly increased terms by suppliers or subcontractors, and MODAXO is not at fault, MODAXO is entitled to withdraw from the affected part of the contract. MODAXO shall inform the customer immediately and refund any

consideration already received for services not rendered.

(4) If the contracting parties subsequently agree on different or additional services that affect the agreed deadlines, such deadlines shall be extended by a reasonable period of time.

(5) With regard to hardware, the risk of accidental loss and accidental deterioration shall pass to the purchaser no later than upon handover to the forwarding agent, carrier, or any other person designated to carry out the shipment. If shipment or handover is delayed for reasons attributable to the purchaser, the risk shall pass upon notification that the goods are ready for shipment.

(6) Reminders and deadlines set by the customer must be in writing to be effective. Any grace period must be reasonable. A period of less than two weeks is reasonable only in cases of particular urgency.

(7) The place of performance for services is the location where the service is to be performed according to the agreement. Otherwise, the place of performance for all services is the registered office of MODAXO.

§ 6 Remuneration, Payment

(1) Remuneration is determined by the contract, the order confirmation, or MODAXO's offer. All prices are net, plus statutory sales tax, as well as travel expenses, incidental costs, shipping, packaging, customs, import, and other ancillary costs, unless expressly agreed otherwise.

(2) One-time fees are due upon delivery, provision, or performance of the service and receipt of the invoice. Recurring fees are due annually in advance, unless otherwise agreed. Invoices are payable without deduction within thirty (30) days of the invoice date.

(3) If the customer defaults on payment, they shall owe default interest at the statutory rate. MODAXO may assert further claims for damages resulting from the default.

(4) In the case of continuing obligations, MODAXO is entitled to reasonably increase recurring fees effective as of the start of an extension period or, in the case of indefinite-term contracts, with three (3) months' notice, if costs for personnel, input costs, third-party providers, infrastructure, energy, regulatory requirements, or general market prices increase. If the increase exceeds fifteen percent (15%) of the most recently applicable fee, the Customer may terminate the affected part of the contract as of the effective date of the increase.

(5) The Customer may only set off undisputed claims, claims recognized by MODAXO, or claims that have been legally established. The Customer may assert rights of retention and the defense of non-performance only to the extent that they are based on the same contractual relationship. Section 354a of the German Commercial Code (HGB) remains unaffected. Claims against MODAXO may be assigned only with MODAXO's prior written consent; Section 354a of the German Commercial Code (HGB) remains unaffected.

§ 7 Acceptance, Obligations of the Customer

(1) To the extent that work services are owed, these must be inspected and accepted immediately upon delivery, at the latest within ten (10) business days, provided that no material defects prevent this. Minor defects do not entitle the customer to refuse acceptance.

(2) Acceptance shall be deemed to have taken place if (a) the customer makes productive use of the service, (b) the customer does not refuse acceptance within the period specified in paragraph 1, specifically identifying material defects, or (c) MODAXO has set the Customer a reasonable grace period after the expiration of the inspection period and the Customer does not refuse acceptance within this grace period by specifically identifying material defects.

(3) Section 377 of the German Commercial Code (HGB) applies to purchased and delivered items. The purchaser shall inspect all delivered items immediately upon delivery or making them available in a professional manner and shall report any apparent defects in writing, providing a detailed description of the defect. Apparent defects must be reported no later than ten (10) business days after delivery; hidden defects no later than ten (10) business days after discovery.

(4) If a timely and proper complaint is not made, the relevant delivery items shall be deemed accepted, to the extent permitted by law. Rights arising from fraudulently concealed defects remain unaffected.

(5) The Customer shall provide all cooperation required for the performance of the services in a timely, complete, and free-of-charge manner. This includes, in particular, the provision of expert contacts, information, data, test cases, system access, interfaces, approvals, infrastructure, hardware, Internet/network access, third-party licenses, and suitable working environments.

(6) The Customer is responsible for the selection, procurement, operation, security, up-to-date status, and performance of its IT

environment, unless MODAXO has expressly assumed this as its own service. The Customer is obligated to conduct appropriate tests and review the results prior to going live and after every change, update, or bug fix. The go-live is the responsibility of the Customer, unless MODAXO has expressly assumed a different obligation in writing.

(7) The Customer shall take appropriate precautions in the event that the program does not function properly, in whole or in part (e.g., through data backup, documentation of software usage, fault diagnosis, regular verification of results, and contingency planning). It is the Customer's responsibility to ensure the functionality of the program's operating environment.

(8) If the customer fails to cooperate or provides cooperation late, incompletely, or incorrectly, deadlines shall be extended accordingly. MODAXO is entitled to charge for any additional expenses incurred as a result in accordance with the agreed rates or, if no agreement exists, MODAXO's current rates. Further rights remain unaffected.

§ 8 Material Defects

(1) Upon transfer of risk, the software shall possess the agreed-upon characteristics and shall be suitable for the contractually intended use; in the absence of an agreement, it shall be suitable for its ordinary use. It shall meet the criterion of practical suitability and possess the quality customary for software of this type; however, it is not free of defects. A functional impairment of the program resulting from hardware defects, environmental conditions, incorrect operation, or similar causes does not constitute a defect. An insignificant reduction in quality shall not be taken into account.

(2) MODAXO shall provide subsequent performance at its own discretion through repair, replacement, provision of a new or earlier equivalent program version, patch, update, workaround, or any other measure reasonable to avoid or eliminate the effects of the defect.

(3) The Customer must accept at least three (3) attempts at subsequent performance, provided this is reasonable in the individual case. The Customer shall assist MODAXO in analyzing and remedying defects, in particular by providing a clear description of the error, logs, test data, access options, and expert contacts.

(4) MODAXO may, at its discretion, remedy defects remotely, at the Customer's premises, at MODAXO's business premises, or by providing updates, patches, or workarounds. The Customer shall provide the necessary technical and

organizational resources for this purpose at its own expense.

(5) If it turns out that a reported defect does not exist or is not attributable to MODAXO, MODAXO may charge for the expenses incurred in this regard in accordance with the agreed rates or, if no agreement exists, in accordance with MODAXO's current rates, provided that the Customer has culpably and unjustifiably submitted the defect report.

(6) In the case of defects in third-party products that MODAXO cannot remedy itself for legal or factual reasons, MODAXO shall, at its own discretion, either assert its warranty claims against the third-party supplier on behalf of the Customer or assign such claims to the Customer. The Customer's statutory claims against MODAXO remain unaffected.

(7) The warranty shall lapse if the Customer modifies the delivered item or has it modified by third parties without MODAXO's consent, and this renders the rectification of defects impossible or unreasonably difficult. In any case, the Customer shall bear the additional costs of rectifying the defects arising from the modification.

(8) If the subsequent performance ultimately fails, is definitively refused by MODAXO, or is unreasonable for the purchaser, the purchaser may, in accordance with statutory provisions and these General Terms and Conditions, reduce the purchase price or withdraw from the relevant part of the contract. Claims for damages and reimbursement of expenses exist only in accordance with § 10. Claims are subject to the statute of limitations under § 11.

§ 9 Legal Defects

(1) MODAXO warrants that no third-party rights preclude the Customer's use of the software in accordance with the contract.

(2) If a third party asserts against the Customer that the contractual use infringes the rights of third parties, the Customer shall immediately notify MODAXO in writing, provide MODAXO with all information necessary for examination and defense, and authorize MODAXO, to the extent legally possible, to conduct or support the dispute at its own expense. The Customer shall not acknowledge any claims by third parties without MODAXO's prior written consent.

(3) In the event of legal defects, MODAXO may, at its discretion, (a) procure the right for the Customer to continue using the service, (b) modify or replace the affected service so that no legal infringement remains and the service remains substantially equivalent, or (c) terminate the affected part of the contract in

exchange for reasonable reimbursement of remuneration already paid for periods during which the service can no longer be used.

(4) In all other respects, § 8(9) and § 11 apply accordingly.

§ 10 Liability

(1) MODAXO shall be liable without limitation (a) in cases of intent and fraud, (b) for damages resulting from injury to life, limb, or health, (c) under the Product Liability Act, (d) to the extent of an expressly assumed warranty, and (e) to the extent that liability cannot be excluded or limited by mandatory law.

(2) In cases of gross negligence, MODAXO's liability is limited to the amount of foreseeable damage typical for this type of contract.

(3) In cases of simple negligence, MODAXO shall be liable only for the breach of a material contractual obligation. Material contractual obligations are obligations whose fulfillment is essential for the proper performance of the contract and on whose compliance the customer may regularly rely. In this case, liability is limited to the damage typical for the contract and foreseeable at the time of conclusion of the contract.

(4) To the extent permitted by law and subject to paragraph 1, MODAXO shall not be liable for indirect damages, consequential damages, lost profits, lost savings, loss of production or use, business interruption, reputational damage, damages arising from third-party claims, loss of business opportunities, interest, financing, or capital costs, as well as other financial losses not directly related to the delivery item or the service itself. This does not apply if such damages are typical for the contract and foreseeable in the event of a breach of a material contractual obligation; in this case, the maximum liability limits under paragraph 5 apply.

(5) To the extent that liability under paragraph 2 or paragraph 3 exists on the merits and paragraph 1 does not apply, MODAXO's total liability per contract and calendar year is limited to the greater of the following amounts: (a) the net remuneration paid and owed by the Customer for the relevant part of the contract in the twelve (12) months prior to the event giving rise to the damage, or, in the case of one-time deliveries, the net remuneration for the relevant part of the contract; or (b) EUR 250,000. In the event of multiple claims arising from the same event or

from a series of related events, the maximum liability limit shall apply only once in total.

(6) MODAXO reserves the right to raise the defense of contributory negligence. In particular, the customer is obligated to back up data and defend against malware in accordance with the current state of the art.

(7) The foregoing exclusions and limitations of liability apply to the same extent in favor of the officers, legal representatives, employees, and other vicarious agents of MODAXO.

§ 11 Statute of Limitations

(1) Claims for material defects shall become time-barred within twelve (12) months from delivery, provision, or—where acceptance is required—from acceptance. For defects properly reported within the limitation period, the limitation period shall be at least three (3) months from receipt of a valid notice of withdrawal or reduction.

(2) Claims for defects of title shall become time-barred within two (2) years from delivery, provision, or acceptance, provided that the defect of title does not consist of a third party's right in rem on the basis of which surrender of the performance may be demanded.

(3) Other claims for damages and reimbursement of expenses shall become time-barred within two (2) years from the date on which the purchaser becomes aware of the circumstances giving rise to the claim or should have become aware of them in the absence of gross negligence.

(4) The above limitations do not apply to claims arising from intent, gross negligence, injury to life, limb, or health, fraud, warranty, product liability, or in other cases of mandatory statutory limitation periods. The statutory maximum limitation periods remain unaffected.

§ 12 Term, Termination, and Expiration of Usage Rights

(1) Terms and notice periods are set forth in the contract. Unless otherwise agreed, continuing obligations may be terminated with three (3) months' notice effective at the end of a contract year.

(2) The right to terminate the contract for cause remains unaffected. A cause for MODAXO shall be deemed to exist in particular if the Customer (a) is in default of payment of a not insignificant portion of the remuneration despite a reminder, (b) substantially exceeds usage rights, (c) substantially violates intellectual property rights,

confidentiality obligations, or data protection obligations, (d) persistently refuses to provide necessary cooperation, or (e) files for, has initiated, or has an insolvency proceeding against their assets dismissed due to lack of assets, provided that termination is legally permissible.

(3) Any termination for cause generally requires a prior warning and a reasonable period for remedy, unless setting a deadline is not required by law or would be unreasonable for the terminating party.

(4) Upon termination of the right of use, the Customer shall cease using the affected software and documentation, delete or destroy all copies, and confirm this to MODAXO in writing upon request. Statutory retention obligations remain unaffected; during the retention period, any productive use is prohibited.

(5) Payment claims that have already arisen remain unaffected by termination. Advance payments for services not rendered will be refunded only to the extent that MODAXO is responsible for the termination or mandatory law requires a refund.

§ 13 Confidentiality and Data Protection

(1) The contracting parties undertake to treat as confidential all items (e.g., software, documents, information) that are legally protected, contain trade or business secrets, or are designated as confidential, to treat such items as confidential even after the contract has ended, unless they are publicly known without a breach of the duty of confidentiality. The contracting parties shall store and secure these items in such a way that access by third parties is prevented.

(2) The Customer shall make the subject matter of the contract accessible only to employees and other third parties who require access to perform their duties. The Customer shall instruct these persons regarding the need for confidentiality of the subject matter.

(3) MODAXO shall process the customer's data required for the execution of the transaction in compliance with data protection regulations. MODAXO may name the customer as a reference customer following the successful completion of the services.

§ 14 Final Provisions

(1) Amendments and supplements to the contract must be in writing, unless a stricter form is required by law. To satisfy the written form requirement, transmission in text form, in particular via email, is sufficient, unless notarized or handwritten form is expressly required

by law in individual cases. Individual agreements remain valid regardless of form.

(2) The law of the Federal Republic of Germany shall apply exclusively, excluding conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods. If the contracting party is ebblo Switzerland GmbH, the substantive law of Switzerland shall apply exclusively, excluding conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods. E The exclusive place of jurisdiction for all disputes arising from or in connection with the contract is, to the extent permitted by law, the registered office of the respective contracting MODAXO company or the respective contracting affiliated group company; however, MODAXO is also entitled to sue the customer at the customer's general place of jurisdiction.