General Terms and Conditions of Palturai BusinessGraph Platform Software as a Service / SaaS

Palturai GmbH (State: August 2022)

§ 1 Scope

(1) These General Terms and Conditions of Business and Use apply exclusively. Deviating or conflicting terms and conditions of the customer are not recognized by Palturai GmbH ("Palturai"), unless Palturai has expressly agreed to their validity in writing. These General Terms and Conditions of Business and Use shall also apply exclusively if Palturai provides services without reservation in the knowledge of conflicting or deviating terms and conditions of the customer.

§ 2 Subject of the contract

(1) The software "Palturai BusinessGraph Platform" ("Software") is operated by Palturai on servers as a Software as a Service (SaaS) solution.

(2) During the term of this Agreement, the Customer shall be entitled to use the Software via an Internet connection for contractual and exclusively own purposes as well as to process, store and provide data for download.

(3) For the duration of the term of this Agreement, Palturai grants the Customer the non-exclusive and non-transferable right to load the user interface of the Software for display on the screens into the main memory of the end devices of the Customer's employees who use the Software for the Customer ("Users") and to make copies of the Software in the process. The Customer shall not be granted any further rights to use the Software under copyright law.

§ 3 Type and scope of services

(1) Palturai shall make the Software available to the Customer for use in the respective current version at the router exit of the data center in which the server with the Software is located ("Transfer Point").

(2) The scope of services of the Software results from the Service Level Agreement "Palturai BusinessGraph Platform" (as of May 2022) ("SLA"). The SLA is an integral part of the agreement between Palturai and the Customer and is available at https://palturai.com/document-portal/saas-sla-en/.

(3) The provision of services that exceed the scope of the SLA shall require an additional written agreement.

(4) The Customer's access to the Internet and the establishment and guarantee of the data connection between the Delivery Point and the Customer's IT systems are not the subject of this Agreement.

(5) The number of users, the type of access of the users to the Software (for the types of access see clause 3 of the SLA available at https://palturai.com/document-portal/saas-sla-en/) and the query volume are agreed in the offer signed by the Customer ("User Agreement"). Users will receive an e-mail from Palturai for the generation of a password and information on the use of the agreed access to the Software. The specification of the password is given in the password form.

(6) Subject to the contractual use of the Software and the full payment of the remuneration due and owing, the Customer shall be granted the right, limited to the term of this Agreement, to use the Software exclusively for its own purposes to the following extent:

- Reading,
- Research,
- Downloading and saving search results to a storage medium (e.g. hard disk of a computer) of the customer,

- Editing the search results,
- printing of (edited) search results,
- Companies affiliated with the Customer pursuant to §§ 15 et seq. AktG (German Stock Corporation Act), to make search results accessible by reading or by way of duplication under the condition that such affiliated companies have committed themselves in writing prior to the making accessible to use search results only within the scope of this agreement. The Customer shall prove this obligation to Palturai upon Palturai's request.

Any further use of the software (including the databases and data on which it is based) and the search results requires the prior express written consent of Palturai. Without Palturai's prior express written consent, Customer is in particular not permitted to make the Software (including the underlying databases and data) and the search results publicly available, to disclose them to third parties or to transfer them for use, to upload them to its own company network or to a company network of third parties or to an Internet site, to make them available on demand or to use them for advertising purposes.

§ 4 Remuneration

(1) The remuneration for the use of the software as well as for any agreed services is agreed in the user agreement. The statutory value-added tax is not included in the remuneration and shall be shown separately in the invoice at the statutory rate on the date of invoicing.

(2) The remuneration for the use of the software shall be calculated monthly, quarterly or annually in accordance with the license agreement and shall be due for payment in advance by the first day of each period, unless otherwise specified in the license agreement. Invoices are to be paid in accordance with the usage agreement, as a rule within 15 days of receipt by the customer. If the contract commences within a current calendar month, the remuneration shall be calculated pro rata temporis according to the number of days of use remaining in the calendar month (day-by-day billing).

(3) If the remuneration for the use of the software is not paid in due time, Palturai will request the customer in writing to pay the outstanding amount within 10 days. If the amount is not paid in full within this period, Palturai is entitled to block the Customer's access to the Software. Palturai will immediately re-enable access after full payment of the outstanding amount. The blocking of the access has no effect on the term of the user contract.

(4) The remuneration for functions and content in accordance with § 3 para. 7 above and for any services shall be due for payment within 30 days of conclusion of the contract, unless otherwise agreed.

(5) The receipt of payment by Palturai is decisive for the timeliness of payments.

(6) After expiration of the initial contract term, Palturai may adjust the remuneration to the general price development. If the increase is more than 10 %, the customer may terminate the user contract by giving 14 days' notice to the end of the month.

§ 5 Customer claims for defects

(1) Defects will be remedied by Palturai within the times specified in the SLA. For claims for defects, the rental contract right for defects applies.

(2) The Customer shall sufficiently specify defects and observe Palturai's specifications when identifying, reporting, describing and limiting them.

(3) The Customer's right to terminate the contract for failure to provide use in accordance with § 543 para. 2 sentence 1 No. 1 of the German Civil Code ("BGB") is excluded, unless the production of use in accordance with the contract is deemed to have failed. Also excluded are the tenant's right to remedy defects himself pursuant to § 536 para. 2 BGB and the application of § 536a para. 1 BGB insofar as this norm provides for non-fault liability.

(4) All data offered by Palturai via the Software and processed by it ("Content Data") originate from publicly available sources, third-party providers or the Customer itself. Palturai assumes no liability for the accuracy, timeliness and completeness of the content data and their presentation.

§ 6 Rights of Palturai

(1) Palturai is entitled,
- to take technical measures to prevent use of the Software and of functions and content pursuant to § 3 para. 7 beyond the agreed scope, in particular to install access barriers and to extend installed access barriers;
- log the search queries performed by users in order to perform a comparison with the agreed query volume;
- block a user account if it is not used in accordance with the provisions of this agreement;
- track the use of the software by the customer by evaluating the log files.

§ 7 Obligations of the customer

(1) It is solely the customer's responsibility to create the technical requirements for the receipt of the Software at the Delivery Point and its use (including the system requirements for the Customer's IT systems apparent from the SLA) at its own expense.

(2) The Customer is not permitted to overcome or attempt to overcome access barriers. Furthermore, the customer is not permitted to use software solutions that automatically retrieve content from the databases or data underlying the software.

(3) The Customer is solely responsible for all data and content used by him and the Users and uploaded to and processed in the Software as well as for the use of the search results generated by the Software.

(4) The Customer shall take appropriate measures to prevent third parties from accessing the Software and shall oblige the Users to comply with this obligation. He shall ensure that the users do not violate the provisions of this agreement, in particular that they do not use the software for their own purposes or the purposes of third parties or make access data and/or passwords accessible to third parties. The customer is liable for breaches of contract by the users. He will inform Palturai immediately in writing about any use of the software not in conformity with the contract.

(5) Prior to the first login, Palturai will inform the users of the most important contractual obligations that the users must comply with when using the software. Access to the software is only possible after the user has confirmed that he/she is aware of the obligations.

(6) The Customer shall be obligated to regularly perform proper data backups and to use an up-to-date version of a virus protection program on its IT systems.

(7) The Customer undertakes not to post any data or content that is punishable or - in absolute terms or in relation to third parties - illegal. He will not use any programs that contain viruses or other malware when using the software.

§ 8 Confidentiality

(1) Each party shall be obliged to keep all oral, written and electronic information and data ("Confidential Information") of the other party in connection with this Agreement strictly secret and to take appropriate security measures so that third parties do not gain access to such Confidential Information. Confidential Information shall in particular include all data and documents, the Software including the data and databases on which it is based, functions and contents pursuant to § 3 para. 7, data generated for and by the Customer, access data, passwords, search results generated by the Software (the foregoing § 3 para. 6 shall remain unaffected), source codes, concepts, methods and mechanisms, irrespective of whether they have been marked as confidential or not.

(2) Each party shall not make confidential information of the other party available to third parties without the prior express written consent of the other party. Persons legally bound to professional secrecy shall not be deemed third parties within the meaning of this § 8.

(3) Each party shall disclose confidential information of the other party only to those employees who need such information for the performance of this Agreement and who, prior to such disclosure, have been obligated in writing to maintain secrecy at least equivalent to this Agreement.

(4) The obligation to maintain confidentiality shall not apply to information that is already generally known to the public at the time of disclosure or becomes publicly known after disclosure through no fault of the receiving party or was lawfully disclosed to the receiving party by a third party without an obligation to maintain confidentiality prior to the time of disclosure.

(5) A breach of the obligation to maintain confidentiality may result in irreparable damage. In such a case, each party may therefore take all available legal remedies, including obtaining an injunction.

(6) In the event of a breach of the provisions of this § 8, the receiving party shall immediately inform the other party in writing.

§ 9 Term and termination of the contract

(1) The term of the agreement as well as the notice period are agreed in the usage agreement. Each party is entitled to terminate the agreement. The termination must be in writing to be effective. Fax, e-mail and other electronic communication channels do not satisfy this requirement.

(2) Both parties reserve the right of extraordinary termination for good cause if the legal requirements are met. For Palturai, an important reason exists in particular,

a) if the customer is more than three months in arrears with the payment of a due remuneration after a request for payment by Palturai according to § 4 (3);
b) if the obligation to maintain secrecy pursuant to § 8 is culpably violated;
c) the software is used in violation of § 3 (6), § 7 (6) or § 7 (7).

§ 10 Consequences of the termination of the contract

(1) All rights to use the software expire at the end of the contract.
(2) In case of termination according to § 9 para. 2, Palturai reserves the right to assert further claims, in particular claims for injunctive relief and damages.
(3) Paragraph 2 of § 3 para. 6 (limitation of use), § 8 (confidentiality) and § 14 para. 2 (applicable law and place of jurisdiction) of this agreement shall continue to apply indefinitely after the end of the contract period.

§ 11 Changes to the terms of the contract and the services

(1) Palturai reserves the right to change the terms of the contract. Palturai will notify the customer of changes in writing or by e-mail, highlighting the changes made. If the customer does not object to these changes within 4 weeks after receipt of the notification ("objection period"), the changes shall be deemed accepted by the customer upon expiration of the objection period. In this case, the changes shall apply from the day following the expiry of the objection period. Palturai shall separately inform the customer of the right to object and the legal consequences of the customer's silence in the event of a change to the contractual conditions.
(2) Palturai endeavors to continuously adapt the software to the current technical, content-related or also legal requirements and therefore reserves the right to make changes to the software, in particular adjustments to the state of the art, changes to integrate additional functions, to optimize the software, to improve user-friendliness, changes to the layout and content as well as continuous updating of the posted data. The customer will be informed in a timely manner about any changes made that affect the customer's use of the software via the start page of the software or by e-mail.

§ 12 property rights of third parties

(1) Palturai warrants that the software is free from third party rights that restrict or exclude use in accordance with the contractually agreed scope.
(2) If the contractual use is impaired by property rights of third parties, Palturai shall have the right, to an extent reasonable for the customer, either to modify the software in such a way that it falls outside the scope of protection or to obtain the authority that the software can be used without restriction and without additional costs for the customer in accordance with the contract.
(3) The customer shall inform Palturai immediately in writing if a claim is asserted due to infringement of property rights.

§ 13 Limitation of liability

(1) Palturai shall be liable irrespective of the type of breach of duty, including tortious acts, if Palturai acts intentionally or grossly negligently.

(2) In case of breaches of essential contractual obligations by Palturai, Palturai shall be liable for any negligence, in case of slight negligence, however, only up to the amount of the typical, foreseeable damage; this shall also apply to lost profit and other financial losses. Material contractual obligations are obligations that enable the proper execution of the contract in the first place and on the compliance with which the customer regularly relies and may rely, as well as an obligation, the breach of which endangers the achievement of the purpose of the contract.

(3) The limitations and exclusions of liability under § 13 para. 1 and 2 shall not apply in the event of injury to life, limb or health, fraudulent concealment of defects, the provision of guarantees as to quality or durability or in the event of liability under the Product Liability Act.

(4) Insofar as Palturai's liability is excluded or limited, this shall also apply to the personal liability of Palturai's bodies, employees, representatives and vicarious agents.

(5) Liability for loss of data shall be limited to the typical recovery costs that would have been incurred if back-up copies had been made regularly and in accordance with the risk.

§ 14 Final provisions

(1) The components of the agreement with the Customer shall apply in the following order: User Agreement, SLA, General Terms and Conditions of Use.

(2) This contract shall be governed by the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded. The place of jurisdiction is Frankfurt am Main.

(3) The customer is only entitled to offset if his counterclaims (including any reductions in charges) have been legally established or recognized by Palturai.

(4) The obligation to pay the usage fee shall remain unaffected by the blocking of access insofar as the reason for the blocking was on the part of the customer.

(5) Palturai is entitled to employ third parties for the provision of the contractual services. These shall be named to the customer upon his request.

(6) There shall be no verbal collateral agreements to this Agreement. Changes or additions to this Agreement must be made in writing to be effective. The same shall apply to any waiver of this written form requirement.

(7) Should individual provisions of this Agreement be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of this Agreement. In such a case, the parties shall jointly endeavor to replace the invalid or unenforceable provision with a valid and enforceable provision that is suitable for achieving the desired economic purpose, taking into account the interests of both parties. The same shall apply in the event of a gap in this agreement.

(8) The assignment of rights and obligations under this Agreement shall require the prior written consent of Palturai.

(9) Palturai's current data protection provisions apply to the processing of personal data, is depending on the type of service used and available at https://palturai.com/document-portal/saas-dse-en/ for Palturai web application or https://palturai.com/document-portal/api-dse-en for Palturai API.