

# General Terms and Conditions

## 1. Preamble

cioplenu GmbH, Am Technologiezentrum 5, 86159 Augsburg, Germany (hereinafter "cioplenu") has developed a web-based software solution for the creation, administration and use of digital job descriptions ("software"). These General Terms and Conditions ("GTC") apply to the use of the software and the provision of supplementary services ("services").

## 2. Rights of use

- 2.1 cioplenu grants the client the non-exclusive and non-transferable right to use the software in accordance with its intended purpose for the duration of the contract under the suspensive condition of full payment of the agreed remuneration. The client may use the software only in the context of the contractual regulations. The client does not receive any right to the source code of the software. The customer may only use the software for his own purposes. The use for own purposes includes the intended use of the products for general business purposes of the customer and the processing of the customer's data. This does not include the use of the Products for third parties, for example as a service provider or any other transfer or arrangement of use to third parties.
- 2.2 The customer is entitled to have the software used by his own employees or by third parties for his own purposes. The client creates a super admin user account as part of the initial setup. The super admin user can then create standard user accounts. The software may be used by a corresponding number of named users according to the number of users agreed in the respective order ("Named User License"). The client must document the authorized users in each case. A common use of the software by different users under a common user account is excluded. The client is responsible for the use of the software by his users and all damages caused by negligent or intentional breaches of duty by his users.
- 2.3 Unless otherwise agreed, all rights to the software and services provided by cioplenu or developed under this contract are the sole property of cioplenu. All rights to any kind of modification, development or improvement of the products or services provided by the client are the exclusive property of cioplenu.
- 2.4 The software may contain open source software components. The use of these components is subject exclusively to the corresponding terms of use of the open source software components that are transmitted and/or referenced within the framework of the open source software components. Nothing in this Agreement shall affect the rights or obligations of the customer under the corresponding terms of use of the Open Source Software Components. In the event of contradictions or conflicting provisions of the license terms of the Open Source Software and the provisions of this Agreement, the license terms of the Open Source Software shall prevail.
- 2.5 The right to use the software also extends to fixes, patches, developments and updates which cioplenu makes available to the customer. The right to updates does not include the right to use new/additional products and functionalities that are made available as a separate product/module.
- 2.6 cioplenu provides the software and a detailed documentation of the software in electronic form in German and English language.
- 2.7 Unless otherwise agreed or prescribed by mandatory law or applicable Open Source Software Terms of Use, the customer shall not be entitled to
  - a) copy the software beyond the extent necessary for the contractual use, neither in whole nor in part;
  - b) modify, correct, adapt, translate, improve or otherwise make derived developments to the Software;
  - c) rent, lend, sell, license, transfer or otherwise make the Software available to third parties;
  - d) reverse engineer, decompile, disassemble or otherwise attempt to decipher the source code of the software, in whole or in part;
  - e) circumvent or violate any security devices or protective mechanisms contained in or used for the software;
  - f) take measures which are suitable to cause damage to the software or the servers of cioplenu;
  - g) remove, delete, erase, alter, conceal, translate, combine, supplement or otherwise modify trademarks, documentation, warranties, disclaimers or other rights such as intellectual property rights, signs, messages, markings or serial numbers associated with the software or documentation;
  - h) use the Software in a manner that violates applicable law and/or the rights of third parties;

- i) use the software for the purposes of benchmarking or competitive analysis of the Software, for the development, use or provision of a competing software product or service, or for any other purpose that is detrimental to cioplenu; and/or
- j) use the Software for or in connection with the design, construction, maintenance, operation or use of hazardous environments, systems or applications or other safety-critical applications or otherwise use the Software in a manner that could result in physical injury or serious damage to property.

### **3. Obligations of the client**

- 3.1 The client will support cioplenu in the provision of the contractual services to an appropriate extent. The client has unsolicited all cooperation services, information, data, files, materials, which are necessary for the fulfillment of contractual obligations by cioplenu, in advance to provide. Should the client not cooperate sufficiently and/or cause delay, cioplenu is not obliged to fulfil the contractual obligations as long and as far as cioplenu is prevented from fulfilling the contractual obligations due to insufficient and/or delayed cooperation of the client. cioplenu has to inform the client about his insufficient or timely cooperation and to set a reasonable deadline for supplementary performance. If the client nevertheless does not fulfil his obligations to cooperate, then any increases in remuneration, additional expenses (e.g. additional work, cancellation costs, travel expenses) and postponements of dates which cannot be avoided by cioplenu as a result of this are at his expense. After fruitless expiry of the grace period, the software or service concerned shall be deemed to have been made available or provided.
- 3.2 The client is responsible for (i) appropriate security processes, tools and controls for systems and networks that interact with the software, (ii) the provision of alternative processes in the event of a lack of availability of the software, (iii) the determination whether the technical and organizational measures of data protection and data security provided by cioplenu meet the specific requirements of the client, (iv) the appropriate internal training of the users and the provision of internal technical support, and (v) the proper backup of all programs and data located on his system environment and of all programs and data transferred or all data transferred into the software. data and work results generated with the Software upon commencement of use of the Software and subsequently at reasonable regular intervals.

### **4. Services**

- 4.1 Unless otherwise agreed, services shall be invoiced on a time and material basis at the end of the calendar month in which they are performed. Invoicing will be based on the time sheets of cioplenu. Unless otherwise agreed, reasonable travel expenses shall be borne by the client on a time and material basis and invoiced monthly.
- 4.2 As far as employees of cioplenu are in the rooms of the client, they will follow the safety instructions of the client. The client has to send these instructions in written form to cioplenu in advance.
- 4.3 cioplenu reserves all rights to technical work results, which are created during the provision of services. This includes in particular software/code, interfaces, methods, processes and templates that are used, created or modified by cioplenu. cioplenu grants the client a non-exclusive, non-transferable right to use such work results for his own purposes in accordance with section 2.1 of these GTC.
- 4.4 Work results created by cioplenu within the scope of the provision of services for the client, in particular customising/modification of the software, are not covered by the cioplenu standard support, provided that these work results are not transferred into the standard software.

### **5. Warranty**

- 5.1 Software and services are provided by cioplenu free of defects and essentially correspond to the specifications stated in the documentation when used as intended. The services of cioplenu are carried out competently and professionally according to industry standards by instructed and experienced personnel. The granting of the agreed rights of use to the client does not conflict with any rights of third parties. Technical data, specifications and performance specifications in public statements, in particular in advertising material, are not quality specifications.
- 5.2 In the event of defectiveness, the customer's claims based on defects shall initially be limited to subsequent performance. The client will inform cioplenu in writing of occurring defects with a description of the defect and ask for the removal of the defect. cioplenu provides warranty for proven defects by supplementary performance in such a way that cioplenu makes the software or the service available again in a defect-free

condition or provides or eliminates the defect.

- 5.3 If the supplementary performance finally fails after two attempts of supplementary performance, the client can withdraw from the respective individual contract or reduce the remuneration appropriately. Compensation or replacement of futile expenditures because of a lack carries out cioplenu in the context of the limits of liability specified in these GTC.

## **6. Service provision**

- 6.1 The software is provided in accordance with the cioplenu Service Level Agreement (SLA), which is available at [www.cioplenu.com/gtc](http://www.cioplenu.com/gtc) and which is expressly incorporated into these Terms and Conditions and the Agreement.
- 6.2 In order to use the software, the client requires a current standard web browser (Google Chrome or Mozilla Firefox). The client is responsible for the provision and operation of all hardware and operating software as well as for the secure and fast connection of the IT terminals to the server on which the software and the work descriptions are implemented.
- 6.3 Unless expressly agreed otherwise, the setup and configuration of the software shall be remunerated in accordance with the hourly rates for services agreed in the respective individual order.
- 6.4 Software and other work results shall be deemed to have been handed over as soon as they have been made available to the customer. services shall be deemed to have been rendered as soon as the respective service has been completed. If applicable, support/maintenance shall be regarded as provided on a monthly pro rata basis over time.
- 6.5 Unless otherwise agreed, software and services are not subject to separate acceptance by the customer, but are deemed accepted upon delivery. If acceptance has been contractually agreed and the customer has not complied with the time or test schedule for acceptance, or if such a test schedule or a time limit for tests and acceptance is not available, software and services shall be deemed to have been accepted ten working days after delivery.
- 6.6 cioplenu is entitled to use subcontractors or other vicarious agents (collectively referred to as "subcontractors") in order to fulfil the contractual obligations. cioplenu will ensure that subcontractors are bound to confidentiality and data protection obligations in accordance with this contract. The assignment of subcontractors does not affect cioplenu's contractual obligations towards the client. cioplenu is liable for possible bad performances of a subcontractor as for own fault.

## **7. Terms of payment**

Unless otherwise agreed, software will be invoiced annually in advance upon delivery. The customer must pay invoices within 20 days of the invoice date without discount or other deductions. Unless otherwise agreed, the indication of a purchase order number on the invoice is not a prerequisite for the payment obligation. In the event of late payment, cioplenu is entitled to suspend the contractual services, in particular to block access to the software, and default interest at the statutory rate shall become due. The prices quoted do not include value added tax or other taxes. These will be invoiced separately to the customer, if applicable.

## **8. Limitation of liability**

- 8.1 For simple negligence cioplenu is liable, both for own as well as for attributed behavior, only if essential contractual obligations (cardinal obligations) are violated. In this case the liability is limited to the contractual and foreseeable damage. Essential contractual obligations are those obligations whose violation endangers the achievement of the purpose of the contract, whose fulfilment makes the proper execution of the contract possible in the first place and on whose compliance the client regularly relies. In the aforementioned cases of limited liability, the amount of such liability shall additionally be limited to EUR 500,000 per contract year.
- 8.2 For indirect and consequential damages as well as for lost profit, additional personnel costs, useless expenditures and omitted savings etc. cioplenu is liable only in case of intent and gross negligence.
- 8.3 The limitations of liability do not apply to claims due to intent and gross negligence, in the case of personal injury, fraudulent intent, insofar as the Product Liability Act is applied, as well as for damages which fall within the scope of protection of an independent guarantee, quality or durability guarantee given by cioplenu, insofar as nothing else results from the respective guarantee agreement.

8.4 If the client violates his obligation to properly back up data, cioplenu is liable within the framework of the above provisions for loss of data limited to the amount of those damages that would have occurred even with proper and regular data backup by the client.

## 9. Confidentiality

9.1 Each of the parties undertakes to treat as confidential all information received within the scope of the contractual cooperation which (a) is marked as "confidential" or "secret" or with an equivalent reference or is verbally designated as confidential; (b) is to be regarded as confidential on account of its contents; or (c) has been derived from confidential information which has been made available; is to be used exclusively for the purposes of the contractual cooperation, is to be treated as confidential and is to be protected from knowledge by unauthorized third parties. This confidentiality obligation shall be imposed on all persons entrusted with the performance of this agreement.

9.2 The confidentiality obligation shall not apply to information which (a) is publicly accessible or subsequently became publicly accessible or was already known to the other party at the time the agreement was entered into; (b) was independently and independently developed by the other party; (c) was disclosed to the other party by a third party who is not subject to any confidentiality obligation, or (d) must be disclosed due to statutory provisions or official or judicial orders (in which case the party concerned must be notified immediately).

## 10. Data protection

10.1 As part of the use of the software, personal data of the users of the software can be processed. The client is responsible and cioplenu is a processor. This order processing is regulated in the order processing agreement between the client and cioplenu, which is available at [www.cioplenu.com/agb](http://www.cioplenu.com/agb) and which is expressly included in these terms and conditions and the contract between the parties.

10.2 cioplenu is entitled to use anonymized data in connection with the use of the software for internal business and / or operational purposes, in particular to analyze the use of the software and to improve the software. The client issues a corresponding instruction to anonymize the personal data required for this.

10.3 With regard to the processing of the data of the client's contact person, reference is made to the data protection declaration on the cioplenu website.

## 11. Term

Unless otherwise regulated in the respective individual order, the respective contract has a term of 12 months. Unless otherwise regulated in the respective individual order, the respective contract is always extended by a further 12 months, unless it is terminated in writing at least 3 months before the end of the respective term. If the contract concerned can be terminated by either party in the event of a significant breach of contract by the other party at any time without notice if the breach of contract is not cured within 30 days. This period begins at the time of delivery of the written notification of the essential breach of contract. cioplenu can terminate the contract at any time without notice if the client is dissolved or liquidated or steps are taken to do so and / or if the client becomes insolvent or insolvent.

## 12. General

12.1 This Agreement shall be governed by German law. In the event of any dispute arising out of this Agreement, the parties agree to first reach an amicable settlement. Should this not be possible, the parties shall agree to the following.

12.2 cioplenu has the right to publicly express the fact that the client uses software from cioplenu and/or is a customer of cioplenu and to use the name and logo of the client for this purpose in cioplenu's marketing materials, including on the Internet. Any other use of the client's name or logo requires the client's prior consent.

12.3 All communications under this agreement must be in writing and will be effective upon first delivery.

12.4 Should provisions of this contract be or become invalid or unenforceable in whole or in part, the remaining provisions of this contract shall remain in force. Any invalid or unenforceable provision shall be replaced in accordance with the spirit and purpose of this Agreement by a valid and enforceable provision which comes as close as possible to the economic effect of the invalid or unenforceable provision.