EASY SOFTWARE

General Terms and Conditions
for EASY Cloud Services

January 1, 2019

EASY SOFTWARE GROUP

https://easy-software.com/en/contracts/gtcs/

v1.0

General Terms and Conditions for EASY Cloud Services

These General Terms and Conditions for EASY Cloud Services represent a supplement to the General Terms and Conditions. The General Terms and Conditions and these terms for Cloud Services, together with an order/order confirmation and the other documents attached thereto or referred to therein, constitute the contractual terms for Cloud Services (also "Agreement").

1. Use of services

1.1   EASY places the EASY Cloud Services listed in the Customer's order (the "Services") at the Customer's disposal in accordance with the present contractual terms and the Customer's order. Except where agreed otherwise in the terms or in the order, the Customer has the non-exclusive, worldwide and restricted right to use the Services exclusively for its internal business operations for the period laid down in the order unless the Services, as required by these contractual terms or the order, are ended at an earlier date (the "Performance Period"). The Customer may allow its users to use the Services for the said purpose and is responsible for ensuring that the users comply with the provisions of these contractual terms and its own order.

1.2   The performance specifications describe and regulate the Services. During the Performance Period EASY is entitled to update the performance specifications in order, inter alia, to take into account changes related to laws, statutory provisions, rules, technology, industrial practices, system usage behavior and the availability of third-party contents. Such updating of Services or the performance specifications by EASY will not however materially reduce the scope of the performance, functionality, security or availability of the Services during the Performance Period of your order.

1.3   The Customer is not permitted, and it may not arrange for or permit *o*thers:

1.3.1   to use the Services in order to harass persons, to cause damage, loss or injury to persons or property, to publish materials that are false, defamatory or obscene, to infringe data protection rights, to promote fanaticism, racism, hate or suffering, to send unsolicited mass emails, junk emails, spam or chain letters, to infringe copyrights or in any other way to violate applicable law, ordinances or regulations,

1.3 2   to carry out or disclose any benchmark, availability or performance tests on the Services, or

1.3 3   to carry out or disclose network recognition, port and service recognition, weak-point scans, cracking of passwords, remote-access or penetration tests of the Services. In addition to other rights which EASY has on the basis of these contractual terms and the Customer's order, EASY also has the right to take corrective measures in case of a breach of the above-stated principles. Such corrective measures may include the removal or deactivation of access to Services whose use constitutes a breach of the said principles.

2. Remuneration and payment

2.1   The Customer's order cannot be cancelled after it has been placed and amounts paid cannot be reimbursed except where determined otherwise herein or in the Customer's order. Expenses and taxes are not included in the remuneration specified in an order for Services.

2.2   If the Customer exceeds the volume of services ordered, the Customer must acquire the excess volume without delay and pay the relevant and corresponding amount.

3. Intellectual property rights and restrictions

3.1   The Customer retains all proprietary rights and industrial property rights to its contents. EASY or its licensor (in the case of the use of third-party Cloud platforms) retains all proprietary rights and industrial property rights to the Services, the works derived therefrom and all the work products developed or provided by EASY or commissioned by EASY within the framework of these contractual terms.

3.2   The use of the Services will possibly give the Customer access to third-party contents. Except where laid down otherwise in the order, all proprietary rights and industrial property rights to third-party contents and the use of those contents are subject to the separate provisions of third parties which were agreed between the Customer and the third party concerned.

3.3   The Customer grants EASY the right to host, use, process, display or transfer its (the Customer's) contents in order to provide the Services in accordance with these contractual terms and the Customer's order. The Customer has sole responsibility for the correctness, quality, integrity, lawfulness, reliability and appropriateness of its contents and for obtaining all the rights related to its contents which EASY needs for the performance of the Services.

3.4   The Customer is not permitted, and it may not arrange for or permit *o*thers:

3.4.1   to modify any part of the Services, to create works derived therefrom, or to disassemble, decompile, reverse engineer, reproduce, republish, download or copy said Services or works (including data structures or similar materials produced on the basis of programs),

3.4.2   to access the Services and use them in order to create or support, directly or indirectly, products or services which compete with EASY, or

3.4.3   to license, sell, transfer, assign, distribute or outsource the Services, to permit timesharing of service office use of the Services, or to exploit same or make them available to third parties, except where such use is permitted by these contractual terms or the Customer's order.

4. Non-disclosure

The Customer's contents which are located in the Services are deemed to be confidential information subject to the provisions of this section and the rules laid down in the General Terms and Conditions and in the Customer's order. EASY will however protect the confidentiality of your contents insofar as and as long as this information is located in the Services. EASY warrants confidential handling of the Customer's contents that are located in the Services, in accordance with EASY's security practice, which is defined in the performance specifications applicable to your particular order.

5. Protection of the contents processed by the Customer via the Cloud Services

5.1   In rendering the Services, EASY complies with the provisions of the EASY data privacy policy which apply to the Services ordered. The EASY privacy policy can be accessed at https://easy-software.com/en/privacystatement/.

5.2   Except where the Customer's order determines otherwise, EASY will comply with the provisions of the agreement laid down in the GDPR (contract data processing) for data processing by EASY for EASY Cloud Services (the "data processing agreement"). The data processing agreement can be accessed at

https://easy-software.com/en/ag/contracts/odpa/
https://easy-software.com/en/esd/contracts/odpa/,
https://easy-software.com/en/ees/contracts/odpa/ or at the website of an affiliate of EASY and reference thereto makes it an integral part of this contract; it defines how EASY, within the framework of the provision of the Services, processes the personal data provided to EASY by the Customer. The Customer agrees to effect all the necessary communications and to obtain the permissions and the releases which are necessary for the use of the Services and for their provision by EASY.

5.3 EASY protects the Customer's contents as set forth in the performance specifications, which lay down the administrative, physical, technical and other protective measures which are applied to the contents of the Services and which also describe other aspects of system administration which are applicable to the Services. EASY and the group companies of EASY SOFTWARE AG may implement certain aspects of the Services (e g. administration, maintenance, support, disaster recovery, data processing etc.) on a worldwide basis at its sites and/or by using subcontractors, in compliance with the provisions of data protection law.

5.4 The Customer is responsible for security deficiencies and the consequences of such deficiencies which arise from its contents, including viruses, Trojans, worms or other malicious program routines which are contained in its contents or from the use of the Services in such manner as does not conform to the provisions of these contractual terms. The Customer may disclose its contents to third parties or transfer same to third parties; in the event of such disclosure or transfer EASY will bear no responsibility for the security or confidentiality of such contents.

5.5 Except where determined otherwise in the Customer's order (including in the performance specifications), the Customer's contents must not contain any health, payment or other sensitive personal data which impose specific data security or data protection for the processing of such data as deviate from the obligations laid down in the performance specifications. If EASY offers extended data security or data protection services for a specific type of data, the Customer may obtain these services from EASY.

6. Performance interruptions

6.1 The parties are in agreement that the Cloud Services required within the framework of these contractual terms represent a novel and multiform type of service and that in the event of any possible interruptions of performance the application of the special warranty provisions of obligation law regulated in the German Civil Code does not do justice to the interests of the parties. It is therefore agreed that, instead, the following provisions will apply exclusively in connection with interruptions of performance.

6.2 EASY warrants that EASY will render the Services during the Performance Period with commercially reasonable care and skill in all significant aspects as set forth in the performance specifications.

EASY does not warrant that the Services will be rendered without error or interruption or that all errors will be rectified or that Customer requirements or expectations will be fulfilled by the Services. EASY is not responsible for problems connected with the performance, function or security of the Services which result from the Customer's contents or third-party contents or from services rendered by third parties.

6.3 If there occurs an interruption of performance, the Customer is obliged to let EASY have a written complaint – without delay, but not later than two weeks after becoming aware of such interruption – which describes the error in the Services (including any service request number that may possibly be available). If such complaint is not made, any claims and rights on grounds of the particular interruption of performance, to the extent that such was apparent to the Customer, will be excluded.

6.4 In the event of a complaint under section 6.3 the Customer is obliged to give EASY the opportunity to rectify the interruption of performance complained about. If such rectification is basically successful, any possible breach of obligation by EASY will be deemed resolved. If however the interruption of performance cannot be rectified within a reasonable deadline, the Customer will have the right to terminate the particular contract concerned (extraordinary termination) at a reasonable period of notice. If EASY is responsible for the interruption of performance, the Customer may, instead of or in addition to termination, assert claims for the loss on the scale laid down in section 7. All claims and rights on grounds of an interruption of performance become time-barred in six months as from the time the first complaint was made about an interruption or, under section 6.3, should have been made.

7. Limitation of liability

7.1 EASY is liable for damage or loss (including expense incurred) on whatever legal grounds (e.g. contractual or similar obligations, breach of obligation or unlawful act) only to the following extent:

7.1.1 In case of loss of life, physical injury or damage to health, in case of claims under the German product liability act and in other cases where EASY's liability cannot, under mandatory law, be excluded or limited, EASY will be liable pursuant to the relevant statutory provisions.

7.1.2 In the case of willfully caused damage or loss, EASY is liable under the relevant statutory provisions.

7.1.3 In the case of gross negligence by EASY's legal representatives and executive personnel, EASY is liable under the relevant statutory provisions.

7.1.4 In the case of gross negligence by persons discharging obligations on EASY's behalf, EASY is liable under the relevant statutory provisions if an essential obligation has been breached; in the case of breach of an obligation that is not an essential obligation, EASY's liability is limited to loss under standard contract conditions that was predictable at the time the parties concluded the contract. An essential obligation is an obligation whose fulfillment made the correct performance of the contract possible in the first place and on whose fulfillment you may normally rely.

7.1.5 In the case of mildly negligent breach of an essential obligation, EASY's liability is limited to loss under standard contract conditions that was predictable at the time the contract was concluded. You and EASY are in agreement that the predictable loss under standard contract conditions will in no case be greater than the sum of the payments that were in fact made for the Services, under the order from which the liability resulted, during the twelve (12) months immediately preceding the event giving rise to the claim.

7.1.6 Strict or no-fault liability for damages (e.g. under section 536a (1) BGB, German Civil Code) for interruptions of performance that were present when these contractual terms of the Customer's order were agreed is excluded.

7.1.7 In other respects, liability by EASY is excluded.

7.2 EASY reserves the right to object on grounds of contributory negligence. The Customer is in particular obliged to ensure regular data backup and state-of-the-art anti-virus protection Data backup must be implemented at adequate intervals, but at least once a day, so as to ensure data restoration at reasonable effort and expense. In the event of a loss of data for which EASY is responsible, EASY will be liable only to the level of the expense resulting from due and proper data backup and anti-virus measures.

7.3 It is hereby stated that this section will also apply where the legal grounds for liability by EASY arise from data protection law or a data processing contract (under the GDPR).

8. Additional provisions for indemnification in case of infringements of IP rights

8.1   Where EASY is the provider and, in exercise of its option as provided for in section 5.2 of the General Terms and Conditions, terminates the license for services which form part of the Services and demands their return or discontinuation, including EASY software, EASY will return the unused payments which the Customer made in advance for the said services. Where such services involve the technology of third-party providers and the termination of the license by EASY is prohibited by the terms of the license of the third-party provider, EASY will be entitled to terminate in written form, at 30 days' notice, the Services which are related to the said services and to return the unused payments which the Customer made in advance for the said services.

8.2   EASY will not indemnify the Customer in cases where a claim on grounds of infringement of rights is based on third-party contents or on contents from a third-party portal or materials from another external source to which the Customer has access within or through the Services (e g. a posting of a blog or forum of third parties in social networks, a third-party website reached via a hyperlink, marketing data from external data providers).

8.3   The term "user documentation" in the General Terms and Conditions also comprises the performance specifications to which reference is made in the Customer's order for the Services.

9. Term and termination

9.1   The Services are rendered in the Performance Period laid down in the Customer's order. Where stated in the performance specifications, the Performance Period for specific Services is automatically extended by a further Performance Period of the same duration unless

9.1.1   the Customer notifies EASY in writing and not later than thirty (30) days before the end of the Performance Period concerned of its intention not to extend these Services, or

9.1 2   EASY notifies the Customer in writing and not later than ninety (90) days before the end of the Performance Period concerned of its intention not to extend these Cloud Services.

9.2   EASY is entitled to suspend access to or use of the Services for the Customer or its users ("Suspension") where EASY assumes that

9.2.1   there exists a substantial threat to the functionality, security, integrity or availability of the Services or of contents, data or applications in the Services,

9.2 2   the Customer or its users access or use the Services in order to commit unlawful acts, or

9.2 3   the principles regulated herein governing the permitted scope of use are being violated. Where appropriately practicable and legally permissible, EASY will give the Customer advance notice of such Suspension. EASY will take appropriate measures to restore the Services without delay as soon as EASY has established that the problem causing the Suspension has been resolved. EASY will make the Customer's contents (as existing at the date of Suspension) available during the period of Suspension. Suspension within the framework of this subsection does not absolve the Customer from its obligation to make payments as laid down herein.

9.3   Should EASY or the Customer be in breach of essential provisions of these contractual terms or of an order (as specified in the General Terms and Conditions) and if this breach of contract is not remedied within thirty (30) days of receipt of a written warning, the other party will be entitled to terminate the contract within the framework of which the breach of contract has occurred. If EASY terminates the contract as provided for in

the preceding sentence, the Customer is obliged to pay within 30 days all the amounts which have fallen due up to the time of such termination and all amounts which have not yet been paid for the Services as required by the contract concerned, plus taxes and expense incurred. Except in the case of non-payment of fees, the party which is not in breach of contract may agree, at its own discretion, to extend the 30-day period for as long as the party in breach of contract continues to make appropriate efforts to remedy the breach. The Customer agrees that it will not use the Services offered if and when, subject to the provisions of these contractual terms, it defaults on the remedying of a breach within the meaning of the first sentence of this subsection.

9.4   EASY will place the Customer's contents (as existing at the end of the Performance Period) at the Customer's disposal for a period of at least 60 days after the end of the Performance Period), thus enabling the Customer to retrieve the contents. After the end of this 60-day period and subject to any possible statutory requirements, EASY will delete, or otherwise render inaccessible, all the Customer's contents that are still present in the Services.

10. Contents, Services and third-party websites

10.1 The Services may possibly enable the Customer to link with, to transfer its contents or third-party contents to, or to have access to the websites, platforms, contents, products, services and information of third parties (collectively "Third-party Services"). EASY has no influence over and is not responsible for such Third-party Services. The Customer has sole responsibility for compliance with the access and usage conditions of Third-party Services. Where EASY accesses and uses Third-party Services at the Customer's instance for rendering its own Services, the Customer alone is responsible for ensuring that such access and use, including the use of passwords, access data or tokens issued to the Customer or otherwise made available to the Customer, are permitted according to the access and usage conditions of these services. If the Customer transfers its contents or third-party contents from the Services to a Third-party Service or to a different location, or has such transfer made, this transfer represents a dissemination by the Customer and not by EASY.

10.2 Third-party contents which EASY renders accessible are made available "as is" and in their existing form ("as available") without any warranty or guarantee. The Customer acknowledges and agrees that EASY is not responsible for the contents of third parties and is not obliged to check, monitor or correct same. EASY excludes any and all liability arising from or in connection with third-party contents.

10.3 The Customer acknowledges that the properties, type, quality and availability of third-party contents may change at any time during the Performance Period.

11. Service monitoring, analyses and EASY software

11.1 The Services are monitored by EASY continuously in order to support EASY in the operation of the Services, to process the Customer's service requests, to detect and eradicate threats to the functionality, security, integrity and availability of the Services and of contents, data and applications in the Services, and to detect and rectify unlawful acts or breaches of the guideline on acceptable usage. EASY's monitoring tools are used neither to collect nor to store the Customer's contents in the Services except as is necessary for these purposes. Software which does not come from EASY and which is provided by the Customer or one of its users and stored in the Services or is executed in or via the Services is not monitored by EASY and no problems related thereto are addressed by EASY. The data collected by means of EASY's monitoring tools (the Customer's contents excepted) may also be used to support the management of EASY's service portfolio, to improve the products and services offered by EASY and for license management.

11.2 EASY is entitled

11.2.1   to compile statistical and other information on the performance, function and use of the Services, and

11.2.2   to use data from the Services in summarized form for security and operational management , for the preparation of statistical analyses and for research and development purposes (the provisions of 11.2.1 and 11.2.2 are collectively referred to as "Performance Analyses").

EASY is entitled to make the Performance Analyses available to the general public. Performance Analyses will not however contain Customer contents, personal data or the Customer's confidential information in a form which will make the Customer or other persons identifiable. EASY reserves all industrial property rights to the Performance Analyses.

11.3 EASY is entitled to provide the Customer with online access for downloading specific EASY software for use together with the Services. Where EASY licenses its own software to the Customer and does not specify any separate provisions for this software, this software is provided as a component of the services, and you have the non-exclusive, worldwide and restricted right to use this EASY software, exclusively for your use of the Services, in accordance with the provisions set forth in these contractual terms and in the Customer's order. You are entitled to permit your users to use the EASY software for that purpose, and you are responsible for ensuring that your users comply with the terms of the license. Your right to use the EASY software will end via communication from us (by message to that effect in the internet or by other means) or as of the end of the Services related to the EASY software, whichever event occurs earliest. Notwithstanding the above, where EASY software is licensed to you on the basis of separate provisions, your use of the software will be governed exclusively by those separate provisions.

12. Additional export conditions

The Customer acknowledges that the Services are designed in such manner that the Customer and its users can access the Services regardless of location and can relocate or transfer its (the Customer's) contents between the Services and to other locations such as the users' workplaces. The Customer alone is responsible for authorizing and managing the user accounts, for export controls and for the geographical relocation of its contents.

13. Additional provisions regarding communications

13.1 All communications to the other party which are necessary in the framework of these contractual terms must be in written form, as determined in the General Terms and Conditions.

13.2 EASY may send information to its Services Customers in the form of general notices in an EASY portal for the Services and information directed to the Customer personally by email to the customer email address stored at EASY as required by the GDPR or by franked mail to the Customer's postal address stored at EASY as required by the GDPR.

14. Miscellaneous

14.1 EASY is an independent contracting party and the parties agree that there exists between them no partnership, joint venture or agency relationship.

14.2 The business partners of EASY and other third parties, including all third parties with which the Services have an integration or which the Customer has commissioned to provide advisory services, implementation services or applications interacting with the Services, are independent of

EASY and are not agents of EASY. EASY is not liable or responsible for problems with the Services or the Customer contents arising from the actions of such business partners or third parties unless the business partner or the third party renders services as a subcontractor of EASY on the basis of a commission in accordance with these contractual terms. In this case EASY is liable only to the same extent as is provided for in the case of subcontractors subject to the provisions of these contractual terms.

14.3 Before placing an order subject to these contractual terms it is the responsibility of the Customer alone to establish whether the Services will meet the Customer's technical or business .requirements or the requirements of regulatory law. EASY will support the Customer in its efforts to determine whether the use of the standard Service will meet those requirements. Additional fees may be charged for additional work performed by EASY or changes to the Services. The Customer bears sole responsibility for compliance with regulatory law in connection with its use of the Services.

14.4 After giving prior written notice of forty-five (45) days and doing so not more than once in a period of twelve (12) months EASY is entitled to check on whether the Customer is complying with these contractual provisions and the provisions of the Customer's order. The Customer undertakes to cooperate in such audits by EASY, to provide reasonable assistance and allow access to information. The Customer's ordinary business operations will not be unduly disrupted by such audit.

14.5 It is expressly agreed that the provisions of the present contractual terms and any order placed with EASY will have precedence over the provisions which may possibly be contained in order documents, portals or other documents which do not come from EASY; such provisions do not apply in any circumstances to the Services ordered. In the case of contradictions between the provisions of an order and the present contract provisions, the order will prevail. Except where expressly laid down otherwise in an order, however, the provisions of the data processing agreement have precedence over any and all deviating provisions in an order. These contractual terms and orders placed subject thereto cannot be changed, and rights and restrictions cannot be modified or cancelled except in a text which authorized representatives of both the Customer and EASY have signed or accepted online; EASY is however entitled to update the performance specifications, which may include publication of updated documents on EASY's websites. These contractual terms do not establish any rights of third parties.

15. Contract definitions

15.1 "EASY software" refers to every type of software, software agent, applications, solutions, use or tool which EASY provides to the Customer for downloading in order to facilitate the Customer's access to, operation of and use of the Services..

15.2 "Program documentation" refers to the user manuals, help windows and read-me files for the Services and all EASY software. The Customer can inspect the documentation at https://easy-software.com/de/software/easy-cloud/ or at another internet address specified by EASY.

15.3 "Performance specifications" refers to the following documents, which are in each case applicable to the Services ordered:

15.3.1   EASY Cloud Hosting Policies, the program documentation, the EASY service descriptions and the data processing agreement required under the GDPR at https://easy-software.com/en/software/easy-cloud/ and the links mentioned in section 5.2.

15.3.2   EASY's data privacy policy at https://easy-software.com/en/ag/contracts/ppol/ and

15.3.3 all other EASY documents which are referred to in the Customer's order or which form part of the Customer's order. The following does not apply to services which are not EASY's Cloud Service offers and which are acquired together with the Customer's order, for example the program documentation and the data processing agreement.

15.4 "Third-party contents" refers to all software, data, texts, images, audio and video materials, photographs and other contents and materials in any format which are obtained or derived from third-party sources outside EASY and which the Customer can access within the framework of or in connection with its use of the Services. Examples of third-party contents are: data feeds from social network services, dictionaries and marketing data. Third-party contents also include material coming from third parties which, through use of the Services, is accessed by the Customer or by means of tools provided by EASY or is obtained in such manner.

15.5 "User" refers to the employees, contractors and end users who have been authorized or engaged by the Customer to use the Services in accordance with these contractual terms and the Customer's order. In the case of Services which are specifically designed to grant clients, representatives, customers and suppliers of the Customer or other third parties access to the Cloud Services for interaction with the Customer, such parties are considered to be "users" subject to the provisions of these contractual terms and the Customer's order.

15.6 "Contents" of the Customer refers to all the software, data (including personal data within the of the data processing agreement for EASY Cloud Services as defined in these contractual terms), texts, images, audio and video materials, photographs, applications that do not come from EASY or third-party applications and other contents and materials in any format, which are provide by you or your users and which are stored in the Services or executed via the Services. These Services subject to contractual terms, EASY software, other EASY products and Services and EASY's intellectual property and all adaptations or edits thereof do not fall within the scope of "contents". The contents also include any and all third-party contents which the Customer incorporates in the Services through use of the Services or by means of tools provided by EASY.

15.7 Terminology which is used in this appendix but not defined has the same meaning as in the General Terms and Conditions.

Special terms and conditions for Cloud Services which are offered on a SAP Cloud Platform

The following terms and conditions for Cloud Services supplement the General Terms and Conditions for EASY Cloud Services and prevail in case of conflict with the General Terms and Conditions for EASY Cloud Services.

EASY PCM SAP Cloud Services

e.g. for PCM Employee File Cloud (pls. see attached)

License Terms of EASY SOFTWARE AG
EASY PCM SAP Cloud Services

Section 1   Subject
These License Terms form the basis for the relationship between the parties regarding the customer's use of one or more EASY PCM SAP Cloud Services (the "service"), which are offered and distributed as Software-as-a-Service (SaaS) solution. They describe the general framework for the use of the EASY PCM SAP Cloud Services, but not any services related to this use, other than initial set-up or implementation services or the technical support for the service.

Section 2   Rights of use
(1)   For the duration of the term (Section 3), EASY SOFTWARE AG grants the customer a simple, non-transferable and unlimited right to use the EASY PCM SAP CLOUD Service (the "service") along with the service documentation solely for the purpose of processing the internal business transactions of the customer and his affiliated companies in accordance with the contractual terms and the service description [see attachements, e.g. https://extranet.easy.de/pages/viewpage.action?pageId=42444015#tab-English]. With regard to contents and geography, the rights of use for the EASY PCM SAP Cloud Service do not go beyond the scope that SAP offers to the customer for using the SAP Cloud service that corresponds to the EASY software.
(2)   The customer may permit his authorized users to use the service at the contractually agreed scope in accordance with the usage metrics and volumes arranged in the purchase order/order confirmation.
The access data for the service may not be used multiple times or by several persons simultaneously. However, the data may be transferred from one person to another if the original user is no longer authorized to use the service. The customer is responsible for the actions and omissions of his authorized users, affiliated companies and business partners, as well as his own actions and omissions, and he will commit the above to use the service and the Cloud materials in accordance with the contract. For the remainder, the customer is not permitted to sub-license, sell, lease or rent the service and the Cloud materials, or to otherwise make them available to third parties.
(3)   During the use of the Cloud service, the customer may not: (a) copy, translate, disassemble, decompile, reverse engineer or otherwise modify, or create works derived from, the service or a documentation (insofar as this is not permitted in accordance with mandatory law and even possible at a technical level), in whole or in part. However, the required amount of copies may be made of the documentation for internal use; (b) use the service in a manner that violates the applicable laws, in particular the transmission of information and data that is illegal or breaches third-party rights; and (c) endanger or bypass the operation or the security of the service.
(4)   The customer is responsible for monitoring the use of the service and will immediately report any use that goes beyond the contractual agreements (in particular the agreed usage metrics and volumes) to EASY SOFTWARE AG in writing. In that case, the customer must sign a supplementary agreement that shows the additional use and additional remuneration. Such remuneration applies as of the date on which the relevant metrics have been exceeded. EASY SOFTWARE AG is entitled to verify that the service is used in accordance with the contract, in particular compliance with the agreed usage metrics and volumes.
(5)   EASY SOFTWARE AG may temporarily suspend the customer's access (particularly user names and passwords) to the service as a defense against damages if and insofar it is sufficiently probable that any further use of the Cloud service by the customer, the authorized users or a third party in violation of the contract using the customer's access data could have a negative effect on the service, a SAP Cloud service or other SAP customers or third-party rights in a way that requires immediate action to defend against damages. EASY SOFTWARE AG will immediately notify the customer of such a suspension. To the extent that circumstances allow, the customer will be informed ahead of time in writing or by e-mail. EASY SOFTWARE AG will limit the time period and scope of the suspension to the extent that can be reasonably justified, given the circumstances of the case.
(6)   The service may contain links to web services that are offered by SAP, SAP partners or third-party providers on external websites, which may be accessed via the Cloud service and that are subject to the terms of use of these providers. EASY SOFTWARE AG only provides technical access to the contents of such incorporated services, the contents of which are the exclusive responsibility of these third parties.
(7)   Authorized users can use mobile applications (mobile apps) to access the services that are defined in more detail in the service description,

which in turn are provided through third-party websites, such as the Apple App Store or the app store for Android devices. The use of such mobile application per se is subject to the terms that are agreed at the time the mobile application is downloaded or accessed, not the provisions under these License Terms.

Section 3   Term of the contract, termination
(1)   The license agreement is established when the customer accepts an offer submitted by EASY SOFTWARE AG (purchase order). EASY SOFTWARE AG confirms the establishment of the agreement with an order confirmation.
(2)   The term and the start of use are found in the offer submitted by EASY SOFTWARE AG, which is based on these License Terms. The offered term is deemed agreed upon acceptance of the offer; it is automatically extended by another 12 months ("extended term") after the expiry of the termination notice period. In accordance with a notice period of 90 days until the end of the initial or corresponding extended term, the customer may (i) terminate the user contract in writing or (ii) reduce the number of defined users and/or packages. The customer's termination of the contract or reduction of the defined users/packages must be sent to the address above in writing. EASY SOFTWARE AG is entitled to terminate the user contract in writing in accordance with a notice period of 90 days to the end of the initial or the corresponding extended term.
(3)   Terminations must be issued in writing. This requirement is not deemed satisfied with e-mail or fax transmissions.
(4)   The parties reserve the right to terminate the user contract for important cause. Important cause for termination by EASY SOFTWARE AG includes in particular:
a)   a significant breach of obligations from the supply or service contracts that are concluded in the context of this contract, particularly the failure to submit payments;
b)   serious breaches of contract or breaches of provisions that were arranged outside of the contract, which lead to a loss of mutual trust or the business basis;
c)   application to commence insolvency proceedings / refusal to commence insolvency proceedings due to a lack of assets or submission of an affirmation in lieu of oath or similar proceedings;
d)   complete or partial and significant discontinuation of business operations, for an actual or foreseeable duration of more than six months.
(5)   In the period between the time when the termination is issued and the time it goes into effect, and also for a period of 30 days after the end of the contract, EASY SOFTWARE AG will enable the repatriation of customer data from the customer's productive Cloud system to the customer, if and insofar this is permitted as per the contracts concluded between the customer, EASY SOFTWARE AG and SAP. Data, including customer data, that is still on the servers after the effective termination date will be irrevocably deleted at the latest after 90 days, unless SAP does not allow for the deletion of this data on a technical level, or if the parties agree that such data must continue to be stored in accordance with the applicable laws and regulations. The customer will take the appropriate measures to ensure compliance with the required statutory provisions for data retention, e.g. with regular back-ups on data carriers. Furthermore, the customer will not assert any claims against EASY SOFTWARE AG or its subcontractors that require the use of such data to defend against the claims.
(6)   In turn, the customer commits to return all EASY PCM SAP Cloud Service products in his possession (e g. documentation that the customer does not require for obligatory process documentation), or he will give EASY SOFTWARE AG the option to take possession of transferred products after a reasonable time period (max. three months after a request).

Section 4   Fee, service packages and licenses, rendering of accounts
(1)   The customer orders the EASY PCM SAP Cloud Service from EASY SOFTWARE AG for a license fee pursuant to the metrics (e.g. number of users, files, other units or data records), as agreed upon acceptance of the offer.
The license fee must be paid in advance; this applies to one-time fees as well as periodic usage fees. Discounts are not provided.
Payments are due 14 days after the first day of the month. As of the due date, EASY SOFTWARE AG may charge default interest in the amount of the applicable statutory default interest rate.
(2)   All agreed fees are exclusive of applicable VAT.
(3)   A supplement will be added to this license agreement if the customer orders additional services (e.g. more users).
(4)   SAP requires EASY SOFTWARE AG to verify the actual rate of utilization by the customer (e.g. active users of EASY PCM SAP Cloud Services)

against the background of SAP-licensed users. The customer must be notified of this inspection in advance.

(5)   Use of SAP Cloud Platform interfaces for the connection of EASY SOFTWARE AG services by the customer requires a separate agreement between the customer and SAP and is therefore subject to the provisions of the then applicable SAP price list. The type and scope of accounting for the use of such a SAP interface is arranged directly by the customers and SAP, unless the parties explicitly agree to something different in writing.

(6)   EASY SOFTWARE AG reserves the right to temporarily block some or all of the access to the EASY PCM SAP Cloud Service until payment is submitted, in the event that the payment obligations to EASY SOFTWARE AG are not met within three months of the payment target. EASY SOFTWARE AG will inform the customer of such a step with reasonable advance notice.

(7)   The customer may only apply amounts against undisputed or legally established claims and may only base a withholding right on undisputed or legally established claims.

(8)   EASY SOFTWARE AG may increase the agreed prices for EASY PCM SAP Cloud Services vis-a-vis the customer in accordance with a 90-day notice period by way of a written adjustment notification, in accordance with the following principles:

a)   The first price increase is limited to the percentage by which the index has increased on a cumulative basis, on the basis of the value of the index at the time the purchase order went into effect. All subsequent price increases are limited to the percentage by which the index has increased on a cumulative basis since that time, on the basis of the index status at the time of the previous price increase ("change framework").

b)   The index of average gross monthly earnings of full-time employees in Germany for the industry sector "Provision of IT services" (currently in quarterly figures published by the German Federal Office of Statistics in the technical series 16, series 2.4, Group J 62) must be used as a basis for determining the change framework. If this index is no longer published, then that index published by the German Federal Office of Statistics that most closely depicts the development of average gross monthly earnings in the aforementioned industry sector shall be authoritative for determining the change framework .

c)   Such an increase goes into effect at the beginning of the next extension period for the purchase order.

d)   In the case of a price increase, the customer may terminate the license agreement with EASY SOFTWARE AG that is affected by the increase with a notice period of 30 days. The termination goes into effect at the end of the term of the agreement.

e)   In the event that the fees are amended, EASY SOFTWARE AG will inform the customer of such changes in advance. If the increase exceeds 5%, the customer may, within forty-five (45) days of the increase notification, terminate the license agreement or reject the increase. Terminations must be issued in writing. If the customer rejects the increase, EASY SOFTWARE AG can terminate the license agreement with a notice period of six (6) months.

Section 5   EASY PCM service as a 'supplement' or 'add-on' to SAP Cloud services

(1)   Under certain conditions, SAP will authorize the operation of independent software applications that supplement SAP products on the SAP Cloud platform "supplements"), as well as extensions ("add-ons") for SAP Cloud services that the customer has licensed from an official SAP partner such as EASY SOFTWARE AG. SAP will authorize, activate or deactivate a supplement or add-on pursuant to the information provided by the respective SAP partner.

(2)   SAP reserves the right to reject or withdraw an activation if it has reason to believe that the operation of a supplement or add-on could have a negative effect on the customer's SAP Cloud service system. SAP also reserves the right to temporarily or completely deactivate a supplement or add-on that affects the contractually agreed function and availability of other SAP Cloud services. Moreover, SAP reserves the right to deactivate a supplement or add-on if the supplement or add-on does not meet the quality standards that have been agreed between the SAP partner and SAP, or if the SAP partner fails to meet his contractual obligations vis-a-vis SAP.

(3)   EASY SOFTWARE AG does not assume any guarantee that a supplement or add-on in a future release of the SAP Cloud application that is used by the customer will be eligible for activation. EASY SOFTWARE AG does not guarantee that a supplement or add-on will be available permanently or without interruption. Except for cases of intentional action, EASY SOFTWARE AG does not assume any liability for damages suffered by the customer due to the use of the supplement or add-on.

(4)   In the absence of a different written arrangement between the customer and SAP or EASY SOFTWARE AG, the SLAs arranged for SAP Cloud services do not apply to the operation of a partner supplement or add-on.

Section 6   Service levels, maintenance window and support

The availability of the EASY PCM SAP Cloud Service, the service levels and the maintenance window, as well as the support provided by EASY SOFTWARE AG will depend on the SAP Cloud services used by the customer and the SAP Cloud platform that is used (supplements, add-ons or standalones). The customer must observe the applicable General Terms and Conditions for SAP Cloud services of SAP Deutschland SE & Co.KG ("Cloud GTC") or otherwise applicable GTC of SAP.

Insofar as EASY SOFTWARE AG is technically and legally able to do so (taking into account this dependence), it will provide support services in accordance with the support conditions that are attached to these License Terms.

Section 7   Data privacy and data security

The customer and EASY conclude a contract for the contract processing of data in accordance with the European General Data Protection Regulation (GDPR). The contract text is available at www.easy.de/agb and is deemed to apply to the parties upon confirmation of the order, unless the parties arrange another contract for the contract processing of data that takes precedence in this regard.

Section 8   Warranty

(1)   EASY SOFTWARE AG warrants that the EASY PCM SAP Cloud Service (service) meets the specifications agreed in the service description [see attachements, e.g. https://extranet.easy de/pages/viewpage.action?pageId=42444015#tab-English] for the duration of the term, and that the service does not breach any third-party rights if it is used by the customer in accordance with the contract. EASY SOFTWARE AG will rectify any material defects and defects of title associated with the service in accordance with para. 4. In the event EASY SOFTWARE AG fails to rectify the defect after the expiry of a reasonable extension set by the customer in writing, and if the fitness of the service is significantly impaired as a result, the customer has the right to terminate the contract (whereby the termination must be issued in writing). If the fitness of the service for use as per the contract is significantly impaired, the customer has the right to reduce the remuneration by the appropriate amount. Section 10 applies to damage compensation due to defects.

Any liability regardless of negligence or fault with regard to defects that already existed at the time the contract was concluded pursuant to sec. 536a (1) Alt. 1 BGB (*German Civil Code*)) is hereby excluded.

(2)   With respect to consulting services that are rendered as work performance, EASY SOFTWARE AG warrants that the consulting service corresponds to the agreed service description. Warranty is provided in the form of supplementary performance in accordance with para. 4. In the event supplementary performance is not successful following the expiry of a reasonable extension set by the customer in writing, the customer has the right to reduce the fee payable as per the relevant purchase order for the affected consulting service by the appropriate amount, or withdraw from the order. Section 10 applies to damage compensation due to defects.

(3)   In the event EASY SOFTWARE AG does not render the consulting services subject to acceptance, or fails to do so in a timely manner, or if EASY SOFTWARE AG commits other breaches of obligation with regard to the consulting services or the Cloud service outside of the scope of the liability for material defects and defective title, the customer must reprimand EASY SOFTWARE AG in writing and must provide EASY SOFTWARE AG with a reasonable extension so that EASY SOFTWARE AG is given an opportunity to properly render the service or otherwise rectify the situation. Section 10 applies to damage compensation.

(4)   EASY SOFTWARE AG will rectify any defects in a Cloud service or consulting services subject to acceptance by providing the customer with a new, defect-free status of the consulting service or Cloud service, or by rectifying the defect. Defects may also be rectified by EASY SOFTWARE AG informing the customer of reasonable options for avoiding the impact of the defect. In the case of defective title, SAP will, at its discretion, either (i) procure the right for the customer to use the Cloud service or the consulting service as per the contract, or (ii) replace the Cloud service or consulting service or modify it so that the alleged breach is rectified but the use by the customer as per the contract is not unreasonably impaired as a result, or (iii) terminate the purchase order and refund the fee that has been paid by the customer for the term remaining after the termination date and provide damage compensation in the context of Section 10.

(5)   The customer must immediately reprimand any breach of obligation committed by EASY SOFTWARE AG in writing, with a detailed description of the reason for the reprimand.

(6)   Warranty rights due to material defects and defective title for consulting services that are eligible for acceptance expire one year after acceptance. The warranty for the Cloud service applies accordingly for support services.

Section 9   Confidentiality

Both parties to the contract will treat in confidence all confidential information and all trade secrets of the other party that were acquired in connection with the contract regarding EASY PCM SAP Cloud Services or other EASY services, and that were expressly marked as confidential or secret, or for which it must be assumed that they are confidential or secret.

Section 10   Liability

(1)   In all cases of contractual and non-contractual liability, EASY SOFTWARE AG will only pay damages or refund unsuccessful expenses as follows:

a)   the full amount in the case of intentional action; in the case of gross negligence and the absence of a feature for which EASY SOFTWARE AG has assumed a guarantee, only at the amount of the foreseeable damages that were supposed to be prevented with the breached obligation or the guarantee;

b)   in other cases: only due to a breach of an essential obligation, if this puts the purpose of the contract at risk, and always limited to EUR 100,000.00 per damage event.

Objections based on contributory negligence are reserved. The limitations of liability pursuant to para. 1 do not apply to the liability for personal injury and liability according to the product liability legislation.

(2)   A one-year period of limitation applies to all claims against EASY SOFTWARE AG for damage compensation or refund of unsuccessful expenses in the case of contractual and non-contractual liability. This does not apply to liability in the case of intentional action or gross negligence, or liability for personal injury or pursuant to the product liability legislation. The period of limitation pursuant to para. 2 sentence 1 begins on the date designated in sec. 199 (1) BGB. Regardless of knowledge, damage compensation claims fall under the limitation provision three years after the damage event. The above limitations of liability also apply to claims against employees, subcontractors or other authorized agents of EASY SOFTWARE AG.

(3)   The contents of the EASY PCM SAP Cloud Services are provided on an 'as is' basis. "Contents" refers to texts, numeric data, visual data and other data or contents that are made available by EASY SOFTWARE AG, SAP or third parties through EASY PCM SAP Cloud Services or in another manner in connection with the EASY PCM SAP Cloud Services. EASY SOFTWARE AG does not assume any guarantee with regard to the accuracy, freedom of third-party rights or the completeness of such contents. The customer uses contents of this type at his own risk. EASY SOFTWARE AG does not assume any guarantee vis-a-vis the customer or third parties regarding the use of these contents by the customer or recourse to the same.

Section 11   Marketing

(1)   EASY SOFTWARE AG is authorized to announce (publicly or non-publicly) or approve announcements disclosing that the parties have concluded a contract for EASY PCM SAP Cloud Services, and it may also include the name of the customer in marketing materials, product-accompanying materials and in press releases of EASY SOFTWARE AG as a reference for the provision of EASY PCM SAP Cloud Services or EASY SOFTWARE AG services, provided that EASY SOFTWARE has informed the customer in writing and that the customer did not object within two weeks of the notification. This also includes the right to use the customer's trademark or logo for this purpose.

(2)   The parties may set out the details in a separate reference customer agreement, which may also give EASY SOFTWARE AG the right to grant the resulting marketing authorizations to its own sales partners.

Section 12   Amendment of terms

(1)   EASY SOFTWARE AG reserves the right to amend this contract with future effect. Such amendments will only be made if this is required, e.g. changes to the SAP Cloud service terms of use that are approved by SAP and that form the basis of this contract.

(2)   EASY SOFTWARE AG reserves the right to make changes to documents that form a part of the EASY PCM SAP Cloud Service user contract by way of reference (e g. service description, price list, support concept) for technical or organizational reasons with future effect.

(3)   Such changes go into effect three (3) months after the customer was notified by EASY SOFTWARE AG in a written or electronic form. In the event that the customer's justified interests are significantly impaired as a result of these changes, the customer is entitled to terminate the user contract at the end of the above time period with a notice period of two (2) months before the changes go into effect. The changes will be deemed as having been accepted by the customer if the customer does not terminate the contract within the designated time period.

Section 13   Other provisions

(1)   Mülheim an der Ruhr shall be the exclusive place of jurisdiction for all legal disputes from or in connection with the contract for EASY PCM SAP Cloud Services.

(2)   In the event that individual provisions in the user contract are found to be invalid, it shall not affect the validity of the remaining provisions. Instead, a legitimate, valid and feasible provision will be added that most closely corresponds to the invalid provision.

(3)   In particular, EASY PCM SAP Cloud Services, EASY documents and Cloud services are subject to the export control laws and provisions of Germany, the European Union or the United States of America. The customer acknowledges his obligation to ensure that his exports associated with the use of EASY PCM SAP Cloud Services, EASY documents or Cloud services meet all applicable local, national and foreign laws and regulations as well as the provisions of the contract for EASY PCM SAP Cloud Services.

Attachment: Terms of Service and Support of EASY SOFTWARE for EASY PCM SAP Cloud Services

Attachment:

Terms of Service and Support for EASY PCM SAP Cloud
Services

1.

Terms of Service for EASY PCM SAP Employee File Cloud

https://extranet.easy.de/pages/viewpage.action?pageId=42444015#tab-English

Terms of Support for EASY PCM SAP Employee File Cloud

https://extranet.easy.de/pages/viewpage.action?pageId=42444015#tab-English