

Version 07/15/2022

## General Terms and Conditions privacy train (GTC privacy train)

of

**datenschutz nord GmbH**

Konsul-Smidt-Str. 88, 28217 Bremen

**(Licensor)**

### Preamble

The licensor provides the e-learning solution privacy train to the licensee. Components of privacy train are the ordered course modules and - in the case of the "LMS" license package - also the licensor's Learning Management System (hereinafter also "LMS").

### § 1 Subject of the contract

- (1) The licensor grants the use of privacy train in the respective current version and to the extent offered.
- (2) The licensee can choose between the license packages BASIC, LMS and SCORM:
  - **BASIC License:** With this license package, the licensee receives simple password-protected Internet access to the course content. LMS functionalities, such as user account management, logging of training status or issuing of training certificates are not included in this license. For this constellation, the parties conclude the supplementary agreement "Data Processing Agreement privacy train (DPA privacy train)".
  - **LMS License:** With this license package, the licensor provides the course content via its learning management system. The license also includes user account management, invitation emails, status logging and training certificates. For this constellation, the parties shall conclude the supplementary agreement "Data Processing Agreement privacy train (DPA privacy train)".

- **SCORM License:** With this license package, the licensor provides the licensee with the course modules as zip files in SCORM 1.2 format. The Licensee may import the course modules into another LMS and use them there within the scope and for the duration of the license. The regulations on availability in § 3 do not apply to this license package.
- (3) The Licensor reserves the right to provide further functionalities and performance improvements in the course of the contract period.
  - (4) Installation and configuration services are not covered by this agreement. Any workshops or training courses that provide the licensee with knowledge on the proper use of privacy train shall be agreed upon separately.

## § 2 Rights of use

- (1) The licensor grants the licensee a non-exclusive right to use privacy train (license) in return for payment, limited in time by the term of the agreement. The license entitles the licensee to use privacy train within the scope of normal use. The license does not extend to other types of use.
- (2) For use, the Licensee shall receive a number of access options for users agreed between the parties. Use of these access options by a larger number of users than agreed requires consent of the Licensor.
- (3) The licensee may not sublicense privacy train in any other way, reproduce it publicly or make it available to third parties, whether for a fee or free of charge. Privacy train may also not be made usable for its own or third parties' purposes by means of reverse engineering, testing or other actions.

## § 3 Availability

- (1) With the exception of planned down time, due to necessary updates and similar changes at the instigation of the licensor, the licensor predicts an average annual availability upwards of 95%. If privacy train is hosted by the licensee (SCORM), the licensee is responsible for the availability.
- (2) Major updates and similar performance improvements or bug fixes that limit the availability of privacy train for a defined period of time will be communicated to the licensee in due time.

#### § 4 Contract term, termination

- (1) By accepting the offer, the Licensee declares the desired date of commencement of the contract and the desired contract term. The rights of use according to § 5 para. 2 are granted for this contract term. The license agreement shall be automatically extended by one year if it is not terminated in writing with a notice period of 3 months to the expiry of the contract term.
- (2) Termination for good cause remains unaffected.

#### § 5 Rights of use, license fee and provision

- (1) The Licensor grants the Licensee a non-exclusive, non-transferable and non-sublicensable right of use to the privacy train course modules identified in the offer and ordered upon acceptance of the offer and - in the case of the "LMS" license form - to its Learning Management System.
- (2) The license fee results from the offer. It is based on the agreed license package, the number of employees to be trained, and the course modules ordered. The licence fee is due at the beginning of each licence year.
- (3) If more users than originally agreed are given access to the ordered course modules (hereinafter "additional users"), the licence is automatically extended by the number of these additional users. The additional licence fee for the additional users is determined and due at the end of a licence year.

For the "LMS" and "SCORM" licence packages, the subsequent calculation of the licence fee is based on the price per user, which is calculated from the originally agreed number of users to be trained.

For the "BASIC" licence package, the licence fee increases in accordance with the current version of the price calculator on [www.privacy-train.de/en/](http://www.privacy-train.de/en/).

For the "BASIC" and "SCORM" licence packages, the Licensee shall notify the Licensor of the number of additional users not later than 4 weeks before the end of a licence year.

- (4) Unless otherwise agreed, the course content is presented in HTML5 format. The licensee shall ensure that all users have up-to-date HTML5-capable browsers.

#### § 6 Warranty

- (1) The Licensor warrants that the course modules provide an average user with an appropriate level of knowledge in the respective course content and have been created with due care and expertise. Nevertheless, erroneous content cannot be completely excluded.
- (2) The Licensor will correct incorrect content that significantly impairs the intended use or conveys an inaccurate picture of the respective course content. Depending on the significance of the error, the Licensor will correct the error by providing an improved version of the content.
- (3) The licensor warrants the agreed quality of privacy train and that the licensee may use privacy train without infringing the rights of third parties. The

warranty does not apply to defects that are rooted in the software or hardware environment of the licensee.

### **§ 7 Liability**

- (1) The Licensor shall be liable for damages caused by intent or gross negligence as well as for the culpable breach of essential contractual obligations in accordance with the provisions of the German Product Liability Act (ProdHaftG), insofar as this breach was caused in a manner that jeopardizes the achievement of the purpose of the contract.
- (2) In the event of a breach of a cardinal obligation (an obligation that is essential for achieving the purpose of the contract), the liability of the Licensor shall be limited to the damage that is foreseeable and typical according to the nature of the transaction in question and the occurrence of which the Licensor could typically expect based on the circumstances known to it at that time. A further liability of the licensor does not exist.
- (3) The aforementioned limitation of liability also applies to the personal liability of the licensor's employees, representatives and bodies.

### **§ 8 Final provisions**

- (1) Should one of the present provisions be invalid, this shall not affect the validity of the remaining provisions.
- (2) In this case, the invalid provision shall be replaced by the statutory provision which, according to the assumed intention of the parties, comes closest to the economic purpose of the invalid provision.
- (3) German law shall apply. The place of jurisdiction is Bremen.